

DRAFT STATE REVIEW FRAMEWORK MARYLAND

Implementation in Federal Fiscal Year 2011

Executive Summary

Introduction

A State Review Framework (SRF) oversight file review of the Maryland Department of the Environment's (MDE) Clean Water Act National Pollutant Discharge Elimination System (CWA-NPDES), Clean Air Act, Stationary Sources, and Resource Conservation and Recovery Act (RCRA) enforcement programs.

~~SRF findings are based on file metrics derived from file reviews, data metrics, and conversations. SRF findings are based upon program metrics derived from a review of federal and state data systems, compliance monitoring and enforcement file reviews, and interviews with state program managers and staff. Compliance monitoring and enforcement data and files are selected from activities occurring during Fiscal Year 2011. These SRF findings are a snapshot in time (FY2011), and it should be noted that MDE has begun making program improvements since the initial review. MDE has provided EPA updated information regarding improvements made since the review was conducted in 2012. In addition, MDE provided updates to relevant post-SRF state activities as well as other comments regarding EPA's findings. MDE's comments are as which are noted in the "state response" portion of each element.~~

While this report ~~contains~~ identifies program performance areas in need of improvement, there were areas in which the MDE's performance met the SRF criteria. The files reviewed for the Air portion of the reviewed showed that MDE's Air Enforcement program takes timely and appropriate enforcement consistent with the High Priority Violator (HPV) policy. In fact, the data metric shows that MDE is well above the national average in addressing HPVs in a timely manner.

Priority Issues to Address

The following are the top priority issues affecting the state's program performance:

NPDES:

- MDE does not enter or upload all minimum data requirements for the MD NPDES compliance and enforcement program.
- MDE enforcement actions do not consistently return to compliance facilities with significant non-compliance (SNC) and non-SNC violations.
- MDE does not consistently consider economic benefit when calculating penalties

Air:

Commented [A1]: • There are separate discussions about MS4s and CAFOs to address future efforts to make information available in ICIS. The WMA Compliance Program is seeking additional guidance and assistance from EPA regarding proper coding of enforcement actions in ICIS. The Compliance Program is also planning to discuss the specific commitments for data entry related to SEVs and sites covered under the general permit for construction stormwater and plans for accomplishing the commitments in Maryland's CMS with EPA. The Compliance Program is concerned that the SRF compared MDE's performance against a variety of EPA goals, guidance and policies that were not specifically included in grant or CMS commitments.

Commented [A2]: The SRF evaluates and tracks state performance as measured against national NPDES program guidance, EPA-State MOA commitments, annual CMS commitments, and Section 106 grant plan commitments. Through the SRF process, EPA seeks consistently to evaluate state implementation of the delegated NPDES programs.

Commented [A3]: • MDE does follow a progressive enforcement process to address facilities that re-enter SNC following completion of the improvements included in a formal enforcement action. MDE requires all sanitary sewer overflows, combined sewer overflows and bypass events to be reported and places the information in tables available on the MDE Website. MDE also reviews each event and assesses penalties unless the events are due to force majeure events beyond the reasonable control of the owner/operator. MDE also takes formal enforcement actions in the form of consent orders to address sewer systems with significant, repeated overflow events.

Commented [A4]: Clarifying statement but does not change the SRF finding. All findings are based upon a fiscal year snap shot of NPDES data and state file reviews of compliance inspections and enforcement actions.

Commented [A5]: • The WMA Compliance Program modified its Inspection, Enforcement and Penalty Procedures to require calculation of gravity and economic benefit penalty components and inclusion of the calculation sheets in the official file. It should be noted that MDE does not use EPA's computer models (such as BEN) for all cases, but selects when it is appropriate to do so. Maryland law does not specifically address economic benefit as part of environmental penalty determinations.

Commented [A6]: See previous comment above.

- MDE needs to improve how they document compliance and enforcement history in their Compliance Monitoring Reports (CMRs).
- MDE needs to improve how they document the difference between the initial and final assessed penalties.
- MDE needs to improve how they document the rationale of gravity and economic benefit calculations for initial penalty calculations.

Commented [A7]: MDE has implemented this recommendation.

Commented [A8]: Please see specific report section for MDE's comments.

Commented [A9]: MDE has implemented this recommendation.

RCRA

- The RCRA reviewers found inaccurate data entry related to 11 of 30 files reviewed. The single biggest issue was the failure to enter SNC data into RCRAInfo - this was found in 9 of the files reviewed.
- Documentation of penalty calculations was not found in the majority of the files reviewed. Only one file contained both gravity and economic benefit.

Commented [A10]: MDE's IT Department has been working on the Node to automatically connect TEMPO to RCRAInfo, but it still doesn't work, and there are also reportedly still issues with the RCRA datahandler portion that uploads hazardous facility ID numbers. Consequently, we are going to have to keep entering data into RCRAInfo manually, and this takes a couple of months.

Commented [A11]: Addressed above.

Commented [A12]: •The WMA Compliance Program plans to discuss this with EPA as part of the CMS proposal for this year to make a specific commitment that they can accomplish. MDE did not agree to enter all SEVs into ICIS and in its recent review of EPA's SEV policy notes that States were only being asked to enter SEVs for majors. MDE tracks all sanitary sewer overflows, combined sewer overflows and bypasses into databases that are posted on the MDE WEBSITE and is pursuing a plan to enter the information into MDE's TEMPO system and then transfer the information through a node into ICIS.

Commented [A13]: Delegated states are required to enter all minimum WENDB data requirements. Currently required as a matter of guidance and policy, entry or uploading of NPDES minimum data elements (WENDB) will be a regulatory requirement upon final publication of the NPDES Electronic Reporting Rule.

Commented [A14]: •MDE is reviewing the detailed information about the facilities included in the SRF, but for sewage overflows there may be additional occasional overflows during the course of a year after a penalty has been assessed for certain events. If there are large, continuing overflows MDE will pursue consent orders to require further improvements.

Commented [A15]: •WMA's Compliance Program has acted to address this as noted above.

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Commented [A16]: EPA is concerned that MDE is not always conducting complete inspections, and is not conducting "process-based" inspections, where MDE follows the industrial process through the facility, but are instead just going to the 90-day waste storage areas, and other low-hanging fruit.

• MDE believes that while we have improved a lot, there is much value in what EPA has to tell us. So, we are going to have a meeting with EPA, to go over the reports and determine areas where we can improve, and to discuss the focus on quality over speed.

Major SRF CWA-NPDES Program Findings

- MDE does not enter or upload all minimum data requirements into the national database for NPDES major and non-major facilities.
- MDE does not accurately identify single event violations (SEVs) for major and non major facilities. In addition, MDE does not consistently identify and timely report SEVs that are SNC violations.
- MDE enforcement actions do not consistently result in returning to compliance facilities with SNC and non-SNC violations.
- MDE does not routinely calculate economic benefit to the violator when calculating penalties in enforcement actions.

Major SRF RCRA Subtitle C Program Findings

- In 30% of the files reviewed, inspection reports did not contain sufficient documentation to verify the compliance determination.

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State Review Framework

I. Background on the State Review Framework

The State Review Framework (SRF) is designed to ensure that EPA conducts nationally consistent oversight. It reviews the following local, state, and EPA compliance and enforcement programs:

- Clean Air Act Stationary Source
- Clean Water Act National Pollutant Discharge Elimination System
- Resource Conservation and Recovery Act Subtitle C

Reviews cover these program areas:

- Data - completeness, timeliness, and quality
- Compliance monitoring - inspection coverage, inspection quality, identification of violations, meeting commitments
- Enforcement actions - appropriateness and timeliness, returning facilities to compliance
- Penalties - calculation, assessment, and collection

Reviews are conducted in three phases:

- Analyzing information from the national data systems
- Reviewing a representative set of state files
- Development of findings and recommendations

Consultation is also built into the process. This ensures that EPA and the state understand the causes of a particular issue and seek agreement on actions needed to address them.

SRF reports are designed to capture best practices and identify areas for program improvements. EPA also uses the information in the reports to better understand the enforcement and compliance programs nationwide, and to identify any issues that require a national response.

Reports provide factual information based upon the review. They do not include determinations of overall program adequacy, nor are they used to compare or rank state programs.

Each state program is reviewed every four years. The first round of SRF reviews began in FY2004. The third round of reviews began in FY2012 and will continue through FY2016.

II. SRF Review Process

Review period: Fiscal Year 2011

Key dates:

- Kickoff meeting conducted: August 2, 2012

Key Dates NPDES:

- Data metric analysis: June 28, 2012
- File selection list sent to state: August 20, 2012
- On-site file review conducted: September 17 – 21, 2012

Key Dates Air:

- Data metric analysis and file selection list sent to state: July 11, 2012
- On-site file review conducted:
 - The CAA on-site file review was conducted by Danielle Baltera, Maryland State Liaison Officer with Louvinia Madison, Kurt Elsner, Sharon McCauley and Marcia Spink, Associate Director for State Relations of the Air Protection Division during the week of July 30, 2012.

Key Dates RCRA:

- Data Metric Analysis and file selection sent to state on June 29, 2012
- On-site file review conducted July 23-26, 2012

Communication with the state:

The EPA Region III Water Protection Division and MDE communicated regularly to discuss preparation for the on-site file review. Discussions included data verification and data metric analysis (DMA) in addition to planning related to the file selection and on-site file review.

EPA's NPDES program conducted the SRF on-site file review from September 17-21, 2012 at MDE headquarters located in Baltimore, MD. EPA staff conducted an opening conference with MDE staff and management to discuss the new round 3 SRF process. Additional topics addressed during the opening conference included a review of prior SRF recommendations from round two as well as an overview of MDE's NPDES program including state commitments, staff roles and responsibilities, training, state data systems and budgetary issues.

Upon completion of the file review, EPA conducted an exit meeting to discuss initial observations, address any outstanding questions related to the file review, and explain the resolution process for any significant issues identified through the SRF review.

Refer to Appendix F for correspondence materials.

State and EPA regional lead contacts for review:

Jesse Salter, Section Head, Compliance Program, Water Management Administration, MDE
Heather Nelson, Chief, Compliance Program, Water Management Administration, MDE
Sharon Talley, Section Head, Enforcement Division, Water Management Administration, MDE
Dave Lyons, Deputy Director, Compliance Program, Water Management Administration, MDE
Brian Clevenger, Program Manager, Sediment, Stormwater, and Dam Safety, WMAW MDE
Ginny Kearney, Deputy Director, Water Management Administration, MDE
Raymond Bahr, Division Chief, Sediment and Stormwater Program Review, WMA, MDE
Carol Coates, Chief, Enforcement Division, Compliance Program, WMA, MDE

Angelo Bianca, Deputy Air Director, ARMA, MDE

Gary Kelman, Section Head, Animal Feeding Operation Section, Land Management Administration, MDE

Chris Menen, Enforcement Officer, Water Protection Division, EPA Region III
Matthew Colip, Enforcement Officer, Water Protection Division, EPA Region III
Aureana Nguyen, Enforcement Officer, Water Protection Division, EPA Region III

Carol Amend, Associate Director, Office of Land Enforcement, EPA Region III

Marcia Spink, Associate Director for State Relation, Air Protection Division, EPA Region III

III. SRF Findings

Findings represent EPA's conclusions regarding state performance, and may be based on:

- Initial findings made during the data and/or file reviews
- Annual data metric reviews conducted since the state's Round 2 SRF review
- Follow-up conversations with state agency personnel
- Additional information collected to determine an issue's severity and root causes
- Review of previous SRF reports, MOAs, and other data sources

There are four types of findings:

Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, **and** are innovative and noteworthy, **and** can serve as models for other states. The explanation must discuss these innovative and noteworthy activities in detail. Furthermore, the state should be able to maintain high performance.

Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern **or** problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal. The state is expected to maintain high performance.

Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal. The state should correct these issues without additional EPA oversight. The state is expected to improve and achieve high performance. EPA may make recommendations to improve performance but they will not be monitored for completion.

Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal. Recommendations are required to address the root causes of these problems, and they must have well-defined timelines and milestones for completion. Recommendations will be monitored in the SRF Tracker.

Clean Water Act Findings

Element 1 — Data Completeness: Completeness of Minimum Data Requirements.

| Finding | Area for State Improvement |
|--------------------|--|
| Description | An analysis of FY2011 state compliance monitoring and enforcement data determined that MDE does not enter or upload all of the NPDES minimum required data elements for major and non-major permitted facilities into the ICIS national database. |
| Explanation | A review of the data metrics under Element 1 indicates that MDE doesn't completely enter or upload compliance monitoring and enforcement data into ICIS. There are 17 minimum required data (MDR) verification elements for NPDES major individual and general permits, and non-major individual and general permits in Element 1. MDE completed data entry for major and non-major wastewater facilities and industrial facilities. However, MS4 Phase I major and Phase II non-major facility data is not entered or uploaded into the national database by MDE. Currently, MS4 Phase I major facility information is entered into the national database by EPA due to EPA-lead inspections at Phase I MS4s. MDE does not collect data or track MS4 Phase I or Phase II facilities in the TEMPO database. In addition, facility data for CAFOs is not currently entered or uploaded into the national database by MDE. MDE does track CAFO compliance monitoring and enforcement activities in the state data system. EPA's data analysis identified a discrepancy of 201 NPDES non-major facilities with general permits not entered or uploaded into the national database although MDE enters data for those permits in TEMPO. MDE does not enter or upload informal enforcement actions although informal actions are tracked internally by MDE. MDE inaccurately reported the total number of formal enforcement actions at major and non-major facilities. MDE's inspection coverage for NPDES non-majors with general permits was below the national average by over 14%. |

| Relevant metrics | Metric | ICIS | TEMPO |
|------------------|--------------------------------------|------|-------|
| | 1a4-Number of Non-Majors General | 2247 | 2448 |
| | 1e1-Facilities with Informal Actions | 0 | 0 |
| | 1e2-Total Number of Informal Act | 0 | 0 |

| Metric | ICIS | TEMPO |
|--|------|-------|
| • 1f1-Facilities with Formal Actions (Majors & Non-Maj) | 34 | 37 |
| • 1f2-Total # of Formal Actions (Majors and Non-Maj) | 34 | 40 |
| • 2a1-Number of formal enf actions against major fac with enf violation type codes entered 4/15=26% | 4 | 15 |
| • 7f1-Non-Majors in Category I Noncompliance | 260 | 149 |
| • 10a1-Major Facilities with Timely Actions as Appropriate MDE reported 0% for Metric 10a1. | | |

State response MDE notes that ~~itwe have not committed to enter some RIDE data into ICIS-NPDES, including single wet weather events (such as SSO events) and CAFO inspections.~~ MDE is continuing to negotiate with EPA Region III regarding the commitments for data entry for the RIDE elements. MDE can enter CAFO inspection data. MDE maintains a list of CSOs, SSOs, and bypasses on its webpage that EPA can use at any time to gather data about those single event violations.

MDE has advised EPA that it wants to discuss SEVs, EPA's interim wet weather SNC policy and economic benefit determinations to fully understand EPA's requirements and expectations. MDE will then develop plans for EPA review and approval that accurately describe what additional actions MDE will take to fulfill specific deliverables and the time lines to do so.

Recommendation MDE should ensure entry of the minimum required data (MDR) elements (WENDB) for all major and non-major facilities regulated under the CWA-NPDES. Within six months of issuance of the SRF final report, MDE should develop a data management plan and SOP that addresses accurate entry of the minimum required data elements into the national database or state equivalent as appropriate and submit to EPA for review. In addition, MDE should work with EPA Region III to ensure the state possesses adequate capacity and provide MDE staff training to enter or upload all required minimum required data elements into the national database. EPA Region III, Water Protection Division (WPD) will monitor the improvement of the accuracy and completeness of MDE's MDR entry through existing quarterly enforcement management calls and other periodic data reviews conducted by EPA. If by June 1 December 30, 2015, EPA's reviews indicate that the revised

Commented [A17]: •MDE notes that we have not committed to enter some RIDE data into ICIS-NPDES, including single wet weather events (such as SSO events) and CAFO inspections. MDE is continuing to negotiate with EPA Region III regarding the commitments for data entry for the RIDE elements. MDE can enter CAFO inspection data. MDE maintains a list of CSOs, SSOs, and bypasses on its webpage that EPA can use at any time to gather data about those single event violations. MDE's staff limitations do not allow it to maintain this public database of these events and also perform dual-entry of the data into ICIS. MDE currently enter into ICIS and will continue to enter for FY 2012, all facility data and permit tracking elements listed in the ICIS-NPDES SYSTEM WORK PLAN except "Draft Permit/Public Notice" information."

Based on this prior understanding it is incorrect for EPA to do an SRF that criticizes MDE for not entering all SEVs into ICIS during 2011. MDE has recently advised EPA that it wants to discuss SEVs, EPA's interim wet weather SNC policy and economic benefit determinations to fully understand EPA's requirements and expectations. MDE will then develop plans for EPA review and approval that accurately describe what additional actions MDE will take to fulfill specific deliverables and the time lines to do so.

The exact language in the FY2011 Work Plan reads as follows:
•Enter all agreed upon RIDE data requirements into ICIS. In the event that MDE anticipates that it will be unable to perform any of the listed ICIS data entry due to circumstances beyond its reasonable control, it will notify the Region of the cause(s) and provide a target date when the data will be entered into ICIS. In certain situations MDE may request data entry assistance from the Region until the problem(s) preventing the data entry can be resolved. Within its resource limitations, EPA commits to assist in these situations. *MDE notes that we have not committed to enter some RIDE data into ICIS-NPDES, including single wet weather events (such as SSO events) and CAFO inspections. MDE is continuing to negotiate with EPA Region III regarding the commitments for data entry for the RIDE elements. MDE can enter CAFO inspection data. MDE maintains a list of CSOs, SSOs, and bypasses on its webpage that EPA can use at any time to gather data about those single event violations. MDE's staff limitations do not allow it to maintain this public database of these events and also perform dual-entry of the data into ICIS. MDE currently enter into ICIS and will continue to enter for FY 2011, all facility data and permit tracking elements listed in the ICIS-NPDES SYSTEM WORK PLAN except "Draft Permit/Public Notice" information. MDE notes that we have not committed to enter some RIDE data into ICIS-NPDES, including single wet weather events (such as SSO events) and CAFO inspections. MDE is continuing to negotiate with EPA Region III regarding the commitments for data entry for the RIDE elements. MDE can enter CAFO inspection data. MDE maintains a list of CSOs, SSOs, and bypasses on its webpage that EPA can use at any time to gather data about those single event violations. MDE's staff limitations do not allow it to maintain ...

Commented [A18]: Delegated states are required to enter all minimum WENDB data requirements. Currently required as a matter of guidance and policy, entry or uploading of NPDES minimum data elements (WENDB) will be a regulatory requirement upon final publication of the NPDES Electronic Reporting Rule.

While 106 grant plans may reflect the practical reality of MDE articulating the set of NPDES data that it is capable of transmitting, this does not adjust the national program expectation that all NPDES WENNB data is uploaded or directly entered into ICIS. The SRF evaluates whether a delegated state program is fulfilling EPA's policy requirement that states enter the complete WENNB data set into ICIS

procedures are resulting in complete entry of MDR, the recommendation will be considered completed.

Commented [A19]: MDE will discuss detailed commitments under the CMS with EPA and it should be noted that MDE is not agreeing to meet the goals or follow every guidance or policy developed by EPA unless such requirement is discussed and specifically included in the CMS.

Commented [A20]: EPA's expectation is that a delegated state NPDES program commit to meeting national CMS guidance inspection targets unless the state negotiates an alternative inspection strategy. With regard to other commitments or expectations set forth in national program guidance, EPA requires delegated states to make a good faith effort to conform to national NPDES policy and guidance.

Element 2 — Data Accuracy: Accuracy of Minimum Data Requirements.

| Finding | Area for State Improvement |
|--------------------|---|
| Description | The data metric analysis and file review determined that minimum NPDES compliance monitoring and enforcement data is not accurately reflected in the national data system. |
| Explanation | EPA's data metric analysis and file review determined that MDE does not accurately enter or upload the minimum required data elements into the national database. MDE accurately entered enforcement violation type codes approximately 26% of the time. In addition, EPA's file review determined that MDR elements for inspection and enforcement information were accurately reflected in the national database at a rate of 25%. The data discrepancies related to inaccuracies in the enforcement violation codes are attributed to data entry errors. Data discrepancies, missing MDR elements and/or inaccuracies were identified during the file review. Errors found during file reviews included failure to enter inspections and enforcement action data. Minimum data elements related to MS4 Phase I/II facilities are not entered in the national database. In addition, EPA identified data entry errors and/or failure to enter accurate inspection and enforcement information as contributing factors to MDE's low percentage of data accuracy. |

| Relevant metrics | Metric | ICIS | TEMPO |
|------------------|---|------|-------|
| | 2a1 – Number of formal enforcement actions taken against majors with enforcement violation type codes entered | | |
| | 4/15=26% | 4 | 15 |

2b (File Metric) – Percentage of files reviewed where data are accurately reflected in the national data system
12/48=25%

State response In addition to the comments provided in element #1, MDE has advised EPA of the Department's intent to develop a node interchange to allow the electronic transfer from ICIS to MDE's TEMPO system and from TEMPO to ICIS. We have advised that when the node is completed it will assist MDE in inputting information into ICIS and show the information to MDE TEMPO users on a regular basis so that errors and missing information can be identified and corrected.

Commented [A21]: See comments provided by MDE on element #1. In addition, MDE has advised EPA of the Department's intent to develop a node interchange to allow the electronic transfer from ICIS to MDE's TEMPO system and from TEMPO to ICIS. We have advised that when the node is completed it will assist MDE in inputting information into ICIS and show the information to MDE TEMPO users on a regular basis so that errors and missing information can be identified and corrected.

Recommendation Complete Element 1 recommendation to address accuracy of MDRs in the national database (see above). MDE should ensure entry of the minimum required data elements (WENDB) for all major and non-major facilities regulated under the CWA-NPDES.

Commented [A22]: Refer to prior EPA response to comments regarding ICIS data entry commitments. In addition, the findings related to SRF data elements reflect the information available at the time of review (FY2011). EPA will consider appropriate generic language to discuss MDE post-SRF efforts to address SRF findings that highlight performance issues.

Element 3 — Timeliness of Data Entry: Timely entry of Minimum Data Requirements.

| | |
|-------------------------|--|
| Finding | Area for State Improvement |
| Description | MDE entered or uploaded into the national database the minimum required data on a timely basis (as set forth by state and federal guidelines) in 17 of 48 files or 35.4% of the files reviewed by EPA. |
| Explanation | EPA's file review determined that MDE failed to consistently enter or upload the minimum data requirements into the national database on a timely basis. Required information not entered on a timely basis included MS4 Phase I major and Phase II non-major compliance monitoring/enforcement information, CAFO compliance monitoring/enforcement information, dates of compliance inspections, informal enforcement actions such as Notices of Violation, and formal enforcement action information. EPA's analysis of the timeliness of MDE's data entry included consideration of the distinction between the federal minimum data requirements for major and non-major facilities. |
| Relevant metrics | 3a – Timeliness of mandatory data entered in the national data system: 17/48 = 35.4% |

State response

Commented [A23]: See previous comment.

Commented [A24]: See comments on Elements 1-2.

Recommendation Complete Element 1 Recommendation to address timely entry of MDRs into the national database (see above).

Element 4 — Completion of Commitments: Meeting all enforcement and compliance commitments made in state/EPA agreements.

Finding Area for State Improvement

Description During the SRF review period of FY 2011, MDE did not complete all enforcement and compliance monitoring commitments as set forth in the 1989 EPA-MDE Memorandum of Agreement (MOA), the FY 2011-2013 Section 106 Grant Plan funded under MDE's Performance Partnership Grant (PPG), and the FY 2011 Compliance Monitoring Strategy (CMS) inspection commitments.

Explanation Element 4 measures planned inspections completed (Metric 4a) and other planned compliance monitoring and enforcement activities completed (Metric 4b). The national goal for Element 4 as set forth in the SRF guidance is 100% of commitments should be met.

MDE did not meet its compliance monitoring commitments under Metrics 4a6 and 4a7 which relate to MS4 facilities. MDE did not perform any inspections and/or audits at MS4 facilities during the FY2011 review period. Maryland has a universe of 11 MS4 Phase I and 93 Phase II facilities. In addition, MDE was unable to provide compliance monitoring data for SSO inspections (Metric 4a5), although MDE reported SSO inspections were conducted on an "as needed" basis which fulfills the federal CMS requirement. MDE completed the

Commented [A25]: This is not accurate. As part of MDE's erosion and sediment control delegation reviews we inspected 214 construction sites in both Phase I and Phase II MS4s.

Commented [A26]: MDE sediment and erosion inspections of construction-stormwater sites are counted and credited under a different SRF and CMS metric. Metric 4a6 and 4a7 measure comprehensive MS4 audits or inspections.

remaining compliance monitoring commitments as set forth under Metric 4a.

Under Metric 4b, MDE met its enforcement and compliance commitments in 3/6 categories or 50% of MDE's FY 2011 commitments were met. EPA evaluated commitments made under the FY 2011-13 Performance Partnership Grant (106), 1989 EPA-MDE MOA, FY 2011 CMS, and the FY 2011 NPDES Permitting and Enforcement Work Plans and determined that MDE did not meet their overall inspection commitment for non-major general permits and MS4s. In addition, MDE did not meet minimum data requirements.

| Relevant metrics | Metric | Committed | Completed |
|------------------|--|-------------|-------------|
| | 4a5 – SSO inspections | “as needed” | ”as needed” |
| | 4a6 – Phase I MS4 audits or inspections | 6 | 0 |
| | 4a7 – Phase II MS4 audits or inspections | 13 | 0 |
| | 4b – Other planned commitments completed | | |
| | <ul style="list-style-type: none"> 3/6=50% | | |
| | Other Planned Commitments not met by MDE: | | |
| | NPDES Data Entry, Accuracy and Completeness (MOA and PPG/106) | | |
| | Penalties- Consideration of Economic Benefit (EPA-MDE Agreement Regarding NPDES and Water Pollution Civil and Administrative Enforcement Response) | | |
| | Completion of SRF Round 2 Recommendations (106/NPDES CWA Plan) | | |

State response MDE will discuss detailed commitments under the CMS with EPA and it should be noted that MDE is not agreeing to meet the goals or follow every guidance or policy developed by EPA unless such requirement is discussed and specifically included in the CMS.

Recommendation EPA Region III will review compliance monitoring and enforcement commitments with MDE and take the following actions to address areas where MDE failed to meet compliance/enforcement commitments. EPA will work with MDE to improve conformance with the 2001⁴⁷ federal CMS guidelines, and other MDE-EPA agreements containing compliance monitoring and enforcement commitments. EPA will work with MDE to determine appropriate CMS inspection commitments

which meet the requirements of the 2007¹⁴ EPA Revised CMS policy. EPA will work with MDE to identify partnering opportunities such as work sharing to improve MDE's compliance monitoring coverage of MS4 Phase I and Phase II facilities. Within 90 days of issuance of the SRF final report, MDE will develop and submit for EPA approval, a written plan to address any NPDES sector commitments in which MDE failed to meet its prior fiscal year CMS or other planned commitments. As component of the MDE's follow up activities under this SRF element, MDE and EPA finalized a Stormwater Work Plan in June 2014 which included comprehensive compliance monitoring strategies for the MS4 and stormwater programs. In addition, on August 8, 2014, MDE provided EPA with a MS4 Inspection and Annual Report SOP that further addresses the SRF findings under this element. Region III will consider the recommendation under Element 4 completed when MDE meets all CMS and other commitments upon review of the relevant fiscal year reporting of compliance monitoring and enforcement completed commitments.

Commented [A27]: MDE will discuss detailed commitments under the CMS with EPA and it should be noted that MDE is not agreeing to meet the goals or follow every guidance or policy developed by EPA unless such requirement is discussed and specifically included in the CMS.

Commented [A28]: EPA's expectation is that a delegated state NPDES program commit to meeting national CMS guidance inspection targets unless the state negotiates an alternative inspection strategy. With regard to other commitments or expectations set forth in national program guidance, EPA requires delegated states to make a good faith effort to conform to national NPDES policy and guidance.

Element 5 — Inspection Coverage: Completion of planned inspections.

| Finding | Area for State Improvement |
|--------------------|--|
| Description | MDE did not meet all of the specific FY2011 Compliance Monitoring Strategy (CMS) inspection commitments for its NPDES Major and Non-major universes. |
| Explanation | Element 5 addresses inspection coverage as reflected in the CMS. The number of NPDES Major facilities inspected in 2011 was 79 out of 90. This represents an 87.7% coverage rate for inspections of major facilities and far exceeded the national average of 54.4%. MDE met FY 2011 |

inspection commitments for traditional major facilities. For FY 2011, MDE inspected 250 out of a universe of 821 non-major individual permits or 30.45% which exceeded the national average of 23.7%, and met inspection CMS commitments for FY 2011. MDE performed 113 inspections of a universe of 2448 non-majors with general permits or approximately 4.6% which is below the national average of 19.2%, MDE does not meet the 2007 CMS goal of 10% of the state's universe for inspections of non-majors with general permits.

MDE did not complete planned inspections under Metrics 4a6 and 4a7 which addresses MS4 majors and non-majors. MDE committed to inspecting 6 MS4 Phase I facilities and 13 Phase II facilities in FY 2011. MDE did not perform any MS4 audits or inspections during FY 2011.

Relevant metrics **Metric**

5a1 – Inspection Coverage NPDES Majors

- Completed: 79/90=87.7%
- National average: 54.4%

5b1 – Inspection coverage – NPDES Non-Majors

- Completed: 250/821=30.45%
- National average: 23.7%

5b2 – Inspection Coverage – NPDES Non-Majors/General Permits:

- Completed: 113/2448=4.6%
- National average: 19.2%

4a6 – Phase I MS4 audits or inspections

- Completed: 0=0%
- Committed: 6

4a7 – Phase II MS4 audits or inspections

- Completed: 0=0%
- Committed: 30

Commented [A29]: 214 MS4 construction site inspections were completed in Phase I and Phase II communities as part of MDE's MS4 review.

Commented [A30]: See previous response to MDE's MS4 comments. No CMS credit is received for construction-stormwater inspections under MS4 commitments

State response

Recommendation Complete Element 4 recommendations to address inspection commitments.

Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

| Finding | Area for State Attention |
|--------------------|---|
| Description | EPA’s FY 2011 file review determined that MDE inspection reports provide sufficient documentation to determine compliance; however, inspection reports are not routinely completed in a timely manner. |
| Explanation | Metric 6a addresses inspection reports reviewed that provide sufficient documentation to determine compliance at a facility. EPA reviewed 39 inspection reports and identified 35 (89.7%) reports that included |

sufficient information to support a compliance determination. There were four inspection reports that did not provide sufficient information as they lacked adequate supplemental narrative detailing violations or the necessary context with explanation to provide a nexus to violations identified through an inspection checklist.

Metric 6b addresses inspection reports completed within the prescribed timeframes of federal or state guidelines. The file review found 30 of 39 or 76.9% of inspection reports completed in a timely manner. MDE inspection reports reviewed did not routinely include inspection times, dates and signatures. Reviewers had difficulty determining the timeliness of inspection report completion due to lack of relevant information in the inspection report. Upon completion of the file review, MDE stated that many inspection reports in the files reviewed for the SRF were duplicates and MDE inspection protocol required inspection reports to be generated the same day as the inspection. MDE policy/guidance does not set forth a timeframe for completing inspection reports (EPA policy is 45 days from inspection date). The review team found the following SRF inspection report elements routinely missing from MDE inspection reports: date signed or completed, signature, time of entry, facility contact phone numbers, current NPDES permit number and status, and photo attachments.

Relevant metrics 6a – Inspection reports provide sufficient documentation to determine compliance:

- 35/39= 89.7%

6b – Inspection reports completed within prescribed timeframe:

- 30/39 = 76.9%

State response The WMA Compliance Program will begin including time of inspection on inspection reports and discuss the specifics about inspection reports further with EPA.

Recommendation MDE should ensure that NPDES inspection reports include all required information as set forth by MDE guidance, EPA's 2004 NPDES Compliance Inspection Manual and the federal national NPDES program office. If determined to be necessary, MDE should revise the August 3, 2012 Inspection, Enforcement and Penalty Procedures for the Compliance Program in the Water Management Administration and/or MDE inspector manuals to include additional guidance addressing procedures for adequate substantiation or proof of violations in

inspection reports and inspection report completion timeframes that comport with federal guidelines (45 days). On August 8, 2014, as a component of the MDE's follow up activities under this SRF element, MDE submitted a MS4 Inspection and Annual Report SOP to EPA that addresses the SRF findings under this element. EPA will work with MDE to assess the implementation of inspection report procedures and improvements. EPA will assess MDE's revisions through a remote desktop review of a limited sample of inspection reports. MDE should ensure that duplicates of original signed/dated NPDES inspection reports are available in the official enforcement file or record.

Commented [A31]: The WMA Compliance Program will begin including time of inspection on inspection reports and discuss the specifics about inspection reports further with EPA.

Commented [A32]: No response required.

Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

Finding Area for State Attention

| | |
|-------------------------|--|
| Description | <p>The EPA file review determined that MDE inspection reports consistently lead to accurate compliance determinations.</p> <p>The FY 2011 Data Metric Analysis for metric 7f1 (Non-Major Facilities in Category I noncompliance) identified a discrepancy between the facility number in ICIS (260) and MDE corrected number of 149.</p> |
| Explanation | <p>Metric 7e addresses inspections reports that led to accurate compliance determinations and reported compliance determinations in the national database in a prompt manner. MDE's inspection reports resulted in accurate compliance determinations in 34 out 39 or 87.2% of reports reviewed by EPA. Five MDE inspection reports did not include sufficient narrative information to supplement the inspection checklist in order to identify violations and allow an accurate compliance determination. In addition, the SRF review determined that MDE promptly enters compliance determinations for major and non-major waste water facilities into the national database. However, for other non-major NPDES-sector permits (e.g., CAFO, MS4, Industrial Stormwater, and Construction Stormwater) MDE does not promptly enter compliance determinations. The required compliance determination information for non-major facilities is entered and available through the state database systems.</p> <p>Data Metric 7f1 measures the number of non-major facilities in category 1 noncompliance. The FY 2011 frozen data set showed 260 facilities in ICIS for metric 7f1. MDE reported a corrected number of 149 facilities.</p> |
| Relevant metrics | <p>7e – Percentage of inspection reports reviewed that led to an accurate compliance determination</p> <ul style="list-style-type: none"> 34/39 = 87.2% <p>7f1 – Non-major facilities in category 1 noncompliance</p> <ul style="list-style-type: none"> ICIS – 260 MDE – 149 |
| State response | N/A MDE will follow up with EPA as noted above. |
| Recommendation | MDE should work with EPA to ensure that inspection reports include all required information as set forth by MDE guidance, EPA's 2004 NPDES Compliance Inspection Manual and the federal national NPDES program office. If determined to be necessary, MDE should will revise the August 3, 2012 Inspection, Enforcement and Penalty Procedures for the Compliance Program in the Water Management Administration and/or MDE inspector manuals to include additional guidance addressing procedures for adequate substantiation or proof of violations in |

inspection reports. On August 8, 2014, as component of the MDE's follow up activities under this SRF element, MDE submitted a MS4 Inspection and Annual Report SOP to EPA that addresses the SRF findings under this element. EPA will work with MDE to assess the implementation of the revised inspection report procedures and improvements. EPA will assess MDE's revisions through a remote desktop review of a limited sample of inspection reports completed under the revised procedures. Complete Element 1 Recommendation to address data entry issue under data metric 7f1(see Element 1).

Commented [A33]: MDE will follow up with EPA as noted above.

Commented [A34]: No response required.

Element 8 — Identification of SNC and HPV: Accurate identification of significant noncompliance and high-priority violations, and timely entry into the national database.

| | |
|-------------------------|--|
| Finding | Area for State Improvement |
| Description | MDE compliance program has resulted in SNC rates for DMR violations significantly below the national average. MDE does not identify Single Event Violations (SEV) as SNC or non-SNC subsequent to compliance determinations based upon NPDES compliance inspections. SNC/SEV determinations are not reported in the national database. |
| Explanation | <p>Data Metric 8a2 addresses the percent of major facilities in SNC. MDE identified 4.4% of major facilities (universe of 90 majors) in SNC during the FY 2011 review period. The national average for FY 2011 was 22.3%.</p> <p>File Metric 8b addresses the percentage of SEVs that are accurately identified as SNC or non-SNC. The file review identified nine instances of SEVs identified as a result of MDE compliance determination or identified by the SRF review team during its review of relevant inspection report. MDE accurately identified SNC or non-SNC in 1 out of 9 files or 11.1%. Seven facilities associated with SEV determinations were non-major facilities and therefore, non-SNC violations. The EPA review determined that MDE did not consistently implement SEV and SNC state and federal guidance.</p> <p>File Metric 8c addresses the percentage of SEVs identified as SNC that are reported timely at major facilities. MDE does not consistently identify SEV/SNC in their compliance determinations and therefore, SEVs identified as SNC are not reported in a timely manner. The EPA file review for this metric was limited to 2 (two) files in which 1 out of 2 files reported SEV-SNC in a timely manner.</p> <p>While MDE does not specifically identify SEV and SNC, this has not impacted MDE's ability to make accurate compliance determinations of NPDES violations.</p> |
| Relevant metrics | <p>8a2 – Percent of Major Facilities in SNC</p> <ul style="list-style-type: none"> • 4.4% • National Average: 22.3% <p>8b – Percentage of Major Facilities identified as SNC or non-SNC</p> <ul style="list-style-type: none"> • 1/9=11.1% <p>8c – Percent of SEV's identified as SNC that are reported in a timely manner at major facilities</p> <ul style="list-style-type: none"> • 1/2=50% |

State response MDE will discuss detailed commitments under the CMS with EPA and it should be noted that MDE is not agreeing to meet the goals or follow every guidance or policy developed by EPA unless such requirement is discussed and specifically included in the CMS.

Recommendation MDE should review the October 15, 2008 EPA ICIS-NPDES national data entry guidance for reporting SEV's and develop additional inspector guidance and training to ensure more accurate/consistent SEV compliance determinations. In addition, MDE should review EPA's September 21, 1995 SNC guidance and the October 2007 Interim Wet Weather SNC policy and develop additional inspector guidance and training to ensure more accurate and consistent SNC violation determinations. The MDE August 3, 2012 policy "Inspection, Enforcement and Penalty Procedures for the Compliance Program in the Water Management Administration" should be modified as appropriate to include more specific guidance for making accurate and consistent SEV and SNC compliance determinations. EPA will work to develop and provide SEV-SNC training for MDE compliance monitoring staff. As a component of the MDE follow up activities under this SRF element, MDE and EPA finalized a Stormwater Program Work Plan on June 17, 2014 which includes a commitment by MDE to develop an enforcement response policy for MS4 facilities. Within one year of issuance of the final SRF report, EPA will conduct a limited inspection file desk top reviews to assess improvements to MDE's SEV-SNC compliance determinations. In addition, within 180 days of issuance of the final SRF report, MDE should submit for EPA approval modified SEV/SNC inspector guidance. EPA will work with MDE to evaluate MDE policy addressing SEV/SNC identification and determinations, and consider the recommendation completed through EPA's annual Data Metric Analysis and supplemental desk top file review for the most recent complete fiscal year.

Commented [A35]: MDE will discuss detailed commitments under the CMS with EPA and it should be noted that MDE is not agreeing to meet the goals or follow every guidance or policy developed by EPA unless such requirement is discussed and specifically included in the CMS.

Commented [A36]: EPA's expectation is that a delegated state NPDES program commit to meeting national CMS guidance inspection targets unless the state negotiates an alternative inspection strategy. With regard to other commitments or expectations set forth in national program guidance, EPA requires delegated states to make a good faith effort to conform to national NPDES policy and guidance.

Element 9 — Enforcement Actions Promote Return to Compliance: Enforcement actions include required corrective action that will return facilities to compliance in specified timeframe.

| Finding | Area for State Improvement |
|------------------|--|
| Description | MDE enforcement actions resulted in violators returning to compliance in a specified timeframe in 14 of 21 enforcement files reviewed by EPA. |
| Explanation | The majority of enforcement actions available to EPA's during the period of review were non-SNC violations at major and non-major facilities. File Review Metric 9a shows the percentage of enforcement responses that have returned or will return a major facility in SNC or non-SNC to compliance. MDE enforcement responses returned facilities to compliance or set forth a compliance schedule in 14 of 21 enforcement response or 66.7% of the time. The remaining files indicated that the 7 facilities remained in non-compliance following the enforcement response. However, the files did not provide adequate documentation to determine if failure to return to compliance was due to a need for additional injunctive relief or a lack of enforcement escalation to address reoccurring violations. |
| Relevant metrics | 9a – Percentage of enforcement responses that return or will return source in SNC or non-SNC to compliance <ul style="list-style-type: none"> 14/21= 66.7% |

| | |
|----------------|---|
| State response | <p>The report noted several facilities with multiple inspections that noted violations but no enforcement action was taken. The Compliance Program's SOP requires referral of SNC cases to the Office of Attorney General if corrective actions are needed. Several of the facilities noted in the FY2011 SRF were forwarded to the OAG as required by the SOP when the SNC determination was made and although the violations were addressed with enforcement actions, the enforcement action may not have been issued within the FY2011 review period. In addition, facilities that were identified as SNC with no corrections needed such as single event violations were resolved with enforcement actions issued within the Compliance Program.</p> <p><u>Examples:</u> The Town of Woodsboro was identified as SNC and the referral was forwarded to the OAG on April 9, 2011. A penalty settlement was issued of \$20,000 was issued to Woodsboro on September 8, 2011 to resolve violations that occurred during the period December 2008 – February, --2011. The enforcement action resolved the violation that</p> |
|----------------|---|

Commented [A37]:

•The report noted several facilities with multiple inspections that noted violations but no enforcement action was taken. The Compliance Program's SOP requires referral of SNC cases to the Office of Attorney General if corrective actions are needed. Several of the facilities noted in the FY2011 SRF were forwarded to the OAG as required by the SOP when the SNC determination was made and although the violations were addressed with enforcement actions, the enforcement action may not have been issued within the FY2011 review period due to resource constraints within the AG's office. In addition, facilities that were identified as SNC with no corrections needed such as single event violations were resolved with enforcement actions issued within the Compliance Program. Due to resource constraints the resolution of these cases may not have occurred within the FY2011 SRF review period. The Department takes exception to EPA's characterization that no enforcement actions were taken. It should be noted in the report that although enforcement actions were not issued timely, the Department did take an enforcement action.

Examples:

The Town of Woodsboro was identified as SNC and the referral was forwarded to the OAG on April 9, 2011. A penalty settlement was issued of \$20,000 was issued to Woodsboro on September 8, 2011 to resolve violations that occurred during the period December 2008 – February 2011. The enforcement action resolved the violation that occurred during the aforementioned time frame but was issued after the FY2011 review period and would have been captured in FY2012 data.

Relax Inn WWTP was identified as SNC in 2008 and the case was forwarded to the OAG for handling. A draft consent order was being negotiated but negotiations have not resulted in a consent order and as of this date an administrative unilateral complaint, order and penalty is being drafted by OAG.

Galena WWTP was identified as SNC in 2009 and the case was forwarded to the OAG for handling. A consent order was fully executed June 2012.

W.R. Grace was identified as SNC in September 2012 and was issued a \$25,400 in penalty in October 2012 to resolve effluent violations and an unauthorized discharge.

Erachem Comilog, Inc. – September 11, 2013, MDE and Erachem Comilog executed a consent decree to address the implementation of improvements to comply with NPDES permit ENR limits. The consent decree includes the assessment of stipulated penalties for violation of permit limits during the pendency of the decree.

Commented [A38]: The SRF review evaluates state program implementation during a specified fiscal year period, FY2011 for MDE's round 3 SRF review. The findings for Elements 9 and 10 are based upon information available at the time for the review. The SRF reporting format does not include a section for post-SRF review activities or updates.

occurred during the aforementioned time frame but was issued after the FY2011 review period and would have been captured in FY2012 data. Galena WWTP was identified as SNC in 2009 and the case was forwarded to the OAG for handling. A consent order was fully executed June 2012.

W.R. Grace was identified as SNC in September 2012 and was issued a \$25,400 in penalty in October 2012 to resolve effluent violations and an unauthorized discharge.

Erachem Comilog, Inc. -- September 11, 2013, MDE and Erachem Comilog executed a consent decree to address the implementation of improvements to comply with NPDES permit ENR limits. The consent decree includes the assessment of stipulated penalties for violation of permit limits during the pendency of the decree.

Recommendation EPA recommends that MDE coordinate with EPA to identify recalcitrant facilities that present long-term noncompliance issues, and assess potential enforcement alternatives such as referring the case for federal enforcement support. In addition, MDE should review its August 3, 2012 policy "Inspection, Enforcement and Penalty Procedures for the Compliance Program in the Water Management Administration," and modify to include more specific guidance regarding enforcement escalation for ongoing noncompliance. Within six months of issuance of the final SRF report, MDE should submit for EPA approval a modified enforcement escalation policy. EPA will work with MDE to evaluate MDE policy addressing enforcement escalation, and consider the recommendation complete as verified through a limited desk top review of MDE enforcement files during Quarterly Enforcement Management (QEM) calls between EPA and MDE.

Element 10 — Timely and Appropriate Action: Timely and appropriate enforcement action in accordance with policy relating to specific media.

| Finding | Area for State Attention |
|--------------------|---|
| Description | Based on the files reviewed, timely and appropriate enforcement actions were taken by MDE in accordance with policy and guidance. |
| Explanation | EPA's data and file review for Element 8 found that MDE does not consistently identify SEVs as SNC and non-SNC. The majority of the files available for review for file Metric 10b which measures the state's enforcement responses that address SNC and non-SNC violations in a timely and appropriate manner were non-SNC violations. EPA |

determined that 18/21 or 85.7% of the FY 2011 enforcement actions addressed violations at major and non-major facilities with appropriate and timely enforcement responses.

Data Metric 10a1 measures enforcement actions against facilities that address violations at major facilities in a timely manner as determined from data entered into ICIS. As MDE does not enter the required minimum data elements to calculate this metric, the metric is assigned a value of 0% of enforcement actions completed in a timely manner.

- Relevant metrics**
- 10a1 – Majors with timely action as appropriate
 - 0%
 - National Goal – 98%
 - 10b – Enforcement responses reviewed that address SNC and non-SNC violations in a timely and appropriate manner. 18/21/2=85.7%

State response See previous response.

Recommendation Recommendations for addressing data metric 10a1 are located in Elements 1, 2 and 3 of the SRF report. See recommendation under Element 8 to address SEV-SNC determinations.

Element 11 — Penalty Calculation Method: Documentation of gravity and economic benefit in initial penalty calculations using BEN model or other method to produce results consistent with national policy and guidance.

Finding **Area for State Improvement**

Description Documentation of penalty calculations was not found in the majority of the files reviewed. Where penalty calculations were available, economic benefit was not considered.

Commented [A39]: (SAME AS PREVIOUS RESPONSE):

•The report noted several facilities with multiple inspections that noted violations but no enforcement action was taken. The Compliance Program's SOP requires referral of SNC cases to the Office of Attorney General if corrective actions are needed. Several of the facilities noted in the FY2011 SRF were forwarded to the OAG as required by the SOP when the SNC determination was made and although the violations were addressed with enforcement actions, the enforcement action may not have been issued within the FY2011 review period due to resource constraints within the AG's office. In addition, facilities that were identified as SNC with no corrections needed such as single event violations were resolved with enforcement actions issued within the Compliance Program. Due to resource constraints the resolution of these cases may not have occurred within the FY2011 SRF review period. The Department takes exception to EPA's characterization that no enforcement actions were taken. It should be noted in the report that although enforcement actions were not issued timely, the Department did take an enforcement action.

Examples:

The Town of Woodsboro was identified as SNC and the referral was forwarded to the OAG on April 9, 2011. A penalty settlement was issued of \$20,000 was issued to Woodsboro on September 8, 2011 to resolve violations that occurred during the period December 2008 – February 2011. The enforcement action resolved the violation that occurred during the aforementioned time frame but was issued after the FY2011 review period and would have been captured in FY2012 data.

Relax Inn WWTP was identified as SNC in 2008 and the case was forwarded to the OAG for handling. A draft consent order was being negotiated but negotiations have not resulted in a consent order and as of this date an administrative unilateral complaint, order and penalty is being drafted by OAG.

Galena WWTP was identified as SNC in 2009 and the case was forwarded to the OAG for handling. A consent order was fully executed June 2012.

W.R. Grace was identified as SNC in September 2012 and was issued a \$25,400 in penalty in October 2012 to resolve effluent violations and an unauthorized discharge.

Erachem Comilog, Inc. – September 11, 2013, MDE and Erachem Comilog executed a consent decree to address the implementation of improvements to comply with NPDES permit ENR limits. The consent decree includes the assessment of stipulated penalties for violation of permit limits during the pendency of the decree.

Commented [A40]: See prior comment for Element 9.

| | |
|-------------------------|---|
| Explanation | In three of the seventeen files reviewed MDE calculated gravity; however, EPA's review determined that MDE failed to consider economic benefit in 0 of 17 of its penalty calculations. |
| Relevant metrics | <p>11a – Penalty calculations reviewed that consider and include gravity and economic benefit:</p> <ul style="list-style-type: none"> • 0/17=0% |
| State response | |
| Recommendation | <p>Within 90 days of issuance of the final SRF report, MDE should ensure that all NPDES enforcement actions are evaluated for gravity and economic benefit (utilizing the Benefit of Economic Noncompliance (BEN) model or the state equivalent and consistent with federal policy). In addition, MDE should ensure that each penalty evaluation is documented in the enforcement action's penalty calculations. MDE should review and train enforcement staff on the requirements of EPA's 1995 "Interim CWA Settlement Penalty Policy" and MDE's relevant penalty procedures guidance.</p> <p>EPA will review a random selection of formal enforcement actions with penalties during MDE's Quarterly Enforcement Management call to assess progress in implementation of the SRF recommendations. If by June 1, 2015, MDE shows sufficient improvement for the consideration and documentation of gravity and economic benefit in penalty calculations, the recommendation will be considered complete.</p> |

Element 12 — Final Penalty Assessment and Collection: Differences between initial and final penalty and collection of final penalty documented in file.

| Finding | Area for State Improvement |
|-------------------------|--|
| Description | MDE does not routinely include penalty calculation worksheets in the enforcement case files. The majority of enforcement actions with penalties reviewed by EPA documented the collection of final penalties. |
| Explanation | <p>Metric 12a measures the percentage of enforcement actions that documented the difference and rationale between the initial and final penalty assessed. EPA's file review identified differences in the initial and final penalty and collection of final penalty payment in 8 of 17 or 47.1% of the enforcement files reviewed. MDE does not routinely include penalty calculation worksheets in the enforcement case files. MDE does have a penalty calculation form available for staff use when calculating a penalty.</p> <p>Metric 12b measures the percentage of enforcement files reviewed that document the collection of a final penalty. EPA's file review determined that MDE enforcement files contained documentation of final penalty payment in 14 of 17 or 82.4% of the files reviewed.</p> |
| Relevant metrics | <p>Metric 12a – Documentation of the difference between the initial and final penalty and rationale</p> <ul style="list-style-type: none">• 8/17=47.1% <p>12b – Penalties collected</p> <ul style="list-style-type: none">• 14/17=82.4% |
| State response | <u>The WMA Compliance Program modified the "Inspection, Enforcement and Penalty Procedures for the Compliance Program in the Water Management Administration" and is working to comply with this requirement.</u> |
| Recommendation | The round 1 and 2 SRF review previously identified MDE's failure to adequately document penalties in accordance with federal and state guidance. MDE should develop a SOP or revise current state policy for calculating penalties which include gravity and economic benefit, documentation of assessed and final penalty calculations, and a record retention policy to assure compliance with State and federal requirements. Within six months of issuance of the final SRF report, MDE should develop and submit for EPA approval a SOP and/or perform policy modifications to the August 3, 2012 MDE policy |

“Inspection, Enforcement and Penalty Procedures for the Compliance Program in the Water Management Administration” to address calculation of penalties including documentation of the assessed and final penalty, capturing economic benefit when appropriate, and record retention requirements. EPA will conduct a desk top file review of a random selection of formal enforcement actions with penalties during MDE’s QEM to assess progress in implementation of the SRF recommendations. If by June 30, 2014⁵, MDE shows sufficient improvement for the consideration of economic benefit, documentation of the difference in assessed and final penalties as well as providing penalty calculations in the enforcement file, the recommendation will be considered complete.

Commented [A41]: June 30, 2014 has already passed, but the WMA Compliance Program already modified the “Inspection, Enforcement and Penalty Procedures for the Compliance Program in the Water Management Administration” and is working to comply with this requirement.

Commented [A42]: No response required.

Clean Air Act Findings

Element 1 — Data Completeness: Completeness of Minimum Data Requirements.

Finding 1-1 **Meets Expectations**

Description MDE has ensured that minimum data requirements (MDRs) were entered into the AFS.

Explanation Element 1 of the SRF is designed to evaluate the extent to which the State enters MDRs into the national data system. No issues were identified for Element 1 in the Data Metric Analysis (DMA).

Relevant metrics Element 1 includes 33 data verification metrics which the State has the opportunity to verify annually. For the sake of brevity, these metrics were not listed here, but can be found in the DMA in Appendix A.

State response

Recommendation None

Element 2 — Data Accuracy: Accuracy of Minimum Data Requirements (MDRs).

Finding 2-1 Area for State Attention

Description 23 of the 27 files reviewed had accurate MDR data reflected in the Air Facility System (AFS).

Explanation Data from four files was not consistent with what was reported to AFS. One file listed a Partial Compliance Evaluation (PCE), however a Full Compliance Evaluation (FCE) was incorrectly reported to AFS. The other three files had incorrect inspection dates reported to AFS. This is occurring when FCEs are performed at gas stations by an MDE contractor. The contractor does not submit the inspection reports timely to MDE. Upon receipt, MDE reviews the report and enters the date of receipt in AFS instead of the actual inspection date. This results in inconsistencies between the data in the enforcement file and what is reported to AFS. MDE confirmed during the on-site file review that the contractor would be submitting the inspection reports timely and that staff was instructed to enter the actual inspection date in AFS.

Relevant metrics **2b** – Accurate MDR Data in AFS: $23/27 = 85.2\%$
(National Goal = 100%)

State response

Recommendation None

Element 3 — Timeliness of Data Entry: Timely entry of Minimum Data Requirements (MDRs).

Finding 3-1 **Meets Expectations**

Description MDE enters the majority (> 90%) of the data required under the MDRs in a timely manner.

Explanation MDE is well above the national average and is near the national goal of 100% for the relevant metrics under element 3.

Relevant metrics **3b1** – Timely reporting of compliance monitoring minimum data requirements: 243/248 = 98% (National Goal: 100%; National Average: 78.60%)
3b2 – Timely reporting of stack test minimum data requirements: 56/62 = 90.3% (National Goal: 100%; National Average: 75.50%)
3b3 – Timely reporting of enforcement minimum data requirements: 48/49 = 98% (National Goal: 100%; National Average: 76.10%)

State response

Recommendation None

Element 4 — Completion of Commitments: Meeting all enforcement and compliance commitments made in state/EPA agreements.

Finding 4-1 **Meets Expectations**

Description MDE met their enforcement and compliance commitments outlined in their FY2010/11 Compliance Monitoring Strategy (CMS) Plan and their October 2005 Memorandum of Understanding (MOU).

Explanation Element 4 evaluates whether the State met its obligations under the CMS plan and the MOU with MDE. MDE follows a traditional CMS plan, which requires them to conduct a full compliance evaluation (FCE) every two years at Major sources and every five years at Synthetic Minor 80 (SM-80) sources. MDE met these obligations by completing 100% of planned FCEs at Major sources and over 100% of planned evaluations at SM80 sources.

In addition, MDE met all of their enforcement and compliance commitments (100%) for FY 2011 under their October 2005 MOU with EPA Region III. Therefore, this element “Meets Expectations”.

Relevant metrics **4a1** – Planned evaluations completed: Title V Major FCEs: 59/59 = 100%
4a2 – Planned evaluations completed: SM-80 FCEs: 56/34 = 164.7%
4b – Planned commitments completed: CAA compliance and enforcement commitments other than CMS commitments: 9/9 = 100%

State response

Recommendation None

Element 5 — Inspection Coverage: Completion of planned inspections.

Finding 5-1 **Meets Expectations**

Description MDE met the negotiated frequency for compliance evaluations of CMS sources and reviewed most Title V Annual Compliance Certifications.

Explanation MDE met or exceeded national goals and/or was above the national average for all data metrics within this element.

 Data metric 5e indicates that 94.4% of the required Title V Annual Compliance Certification (ACC) reviews were completed. EPA guidance indicates that in general, state performance is acceptable when it is within 90% or greater of the national goal. Therefore, MDE met the national goal for all of the relevant metrics, and this element “Meets Expectations”.

Relevant metrics **5a** – FCE Coverage Major: $57/57 = 100\%$ (National Goal: 100%; National Average: 90%)
5b – FCE Coverage SM-80: $52/52 = 100\%$ (National Goal: 100%; National Average: 90.60%)
5e – Review of Title V Annual Certifications Completed: $117/124 = 94.4\%$
 (National Goal: 100%; National Average: 72.50%)

State response

Recommendation None

Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

Finding 6-1 Area for State Improvement

Description Compliance monitoring reports (CMRs) did not always include compliance/enforcement history.

Explanation With the exception of the compliance/enforcement history section, the CMRs were well written. The six files that did not include all of the elements required under § IX of the CMS were only missing the compliance/enforcement history.

Relevant metrics **6a** – Documentation of FCE elements: 9/15 = 60%
(National Goal = 100%)

State response MDE (ARMA) has implemented this recommendation. All reports now contain an enforcement history section.

Commented [A43]: MDE (ARMA) has implemented this recommendation. All reports now contain an enforcement history section.

Recommendation In accordance with the CMS Policy, MDE should add an Enforcement History section to the CMR template within six months of the date of this report. Region 3 will follow-up within six months to ensure the Enforcement History section has been added to the CMR template and that MDE is completing it. Region 3 will conduct these evaluations on a quarterly basis until MDE has addressed the issue.

Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

Finding 6-2 **Meets Expectations**

Description All FCEs reviewed had documentation in the files indicating that they contained all of the elements of the FCE, per the CMS.

Explanation All 15 FCEs reviewed contained sufficient information in the CMR and/or the files to make a compliance determination and met the definition of an FCE, per the CMS.

Relevant metrics **6b** –CMRs or facility files reviewed that provide sufficient documentation to determine compliance of the facility: 15/15 = 100% (National Goal = 100%)

State response

Recommendation None

Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

Finding 7-1 Area for State Attention

Description The majority (88.2%) of the violations were accurately and promptly reported to AFS. 15 of 17 Tier 1 sources that received an informal enforcement action during FY2011 had a compliance status of either “in violation” or “meeting schedule” recorded in AFS during FY2011.

Explanation There were two Tier 1 sources that received an informal enforcement action during FY2011 and did not have a compliance status of either “in violation” or “meeting schedule” recorded in AFS during FY2011. Both of the sources were Synthetic Minor (SM) sources.

This situation does not constitute a significant pattern of deficiencies. Therefore, this is designated as an “Area for State Attention”.

Relevant metrics **7b1** – Alleged violations reported per informal enforcement actions (Tier 1 only): $15/17 = 88.2\%$

State response

Recommendation None

Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

Finding 7-2 **Meets Expectations**

| | |
|--------------------|--|
| Description | With the exception of informal enforcement actions issued during FY2011 (see finding 7-1), all other violations and CMRs and/or facility files reviewed were accurately reported in AFS. |
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|--------------------|--|
| Explanation | All CMRs and/or facility files reviewed, failed stack tests reviewed and High Priority Violators (HPVs) identified had accurate compliance determinations reported in AFS. |
|--------------------|--|

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|-------------------------|--|
| Relevant metrics | 7a – Accuracy of compliance determinations: 15/15 = 100% 7b2 – Alleged violations reported per failed stack tests: 1/1 = 100% (National Average = 54%) 7b3 – Alleged violations reported per HPV identified: 6/6 = 100% (National Goal: 100%; National Average: 69.60%) |
|-------------------------|--|

State response

| | |
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| Recommendation | None |
|-----------------------|------|

Element 8 — Identification of Significant Non-Compliers (SNC) and HPV: Accurate identification of significant noncompliance and high-priority violations, and timely entry into the national database.

Finding 8-1 Meets Expectations

Description MDE does a thorough job in making HPV determinations and reporting HPVs to AFS in a timely manner.

Explanation SRF Rounds 1 and 2 preliminary data analyses (PDAs) had indicated a potential problem in identifying HPVs and applying the HPV policy to violations that received informal enforcement actions at major sources. The EPA Review Team reviewed supplemental files in SRF Round 3 to ensure that this was not a problem. File review metric 8c indicated that 94.4% of the violations reviewed during the SRF Round 3 file review were accurately determined to be HPV or non-HPV violations. EPA guidance indicates that, in general, state performance is acceptable when it is within 90% or greater of the national goal. Therefore, MDE met the national goal for the relevant metric, and this element meets expectations.

Relevant metrics **3a1** – Timely entry of HPV determinations: 6
3a2 – Untimely entry of HPV determinations: 1
(National Goal = 0)
8a – HPV discovery rate per major source universe: $6/121 = 5\%$
(National Average = 3.90%)
8c – Accuracy of HPV determinations: $17/18 = 94.4\%$
(National Goal = 100%)

State response

Recommendation None

Element 9 — Enforcement Actions Promote Return to Compliance: Enforcement actions include required corrective action that will return facilities to compliance in specified timeframe.

Finding 9-1 **Meets Expectations**

Description Enforcement actions include required corrective action that will return facilities to compliance in a specified timeframe. MDE includes corrective actions in formal enforcement responses, where applicable.

Explanation All enforcement action files reviewed (11/11) returned the source to compliance. For enforcement actions that were penalty only actions, the files documented the actions taken by the facility to return to compliance prior to issuance of the order.

Relevant metrics **9a:** Formal enforcement returns facilities to compliance: 11/11 = 100%.
(National Goal = 100%)

State response

Recommendation None

Element 10 — Timely and Appropriate Action: Timely and appropriate enforcement action in accordance with policy relating to specific media.

Finding 10-1 Meets Expectations

Description MDE takes timely and appropriate enforcement actions consistent with the HPV policy.

Explanation All HPV related enforcement actions reviewed during the file review indicated that MDE takes timely enforcement actions for HPVs. In addition, data metric 10a shows that MDE is well above the national average in addressing HPVs in a timely manner as per the HPV policy. The only HPV not addressed in a timely manner was a state-owned facility. The delay in addressing the HPV was due to the time it took to negotiate a supplemental environmental project and then obtain the budget and funding approval. This was considered an isolated incident and not a significant pattern of deficiencies. Therefore, this element “Meets Expectations”.

Relevant metrics **Data Metric 10a** – HPV cases which meet the timeliness goal of the HPV policy: $6/7 = 85.7\%$ (National average 63.7%) (National Goal = 100%)
File Review Metric 10a - Timely action taken to address HPVs: $5/5 = 100\%$
Metric 10b – Appropriate enforcement responses for HPVs: $5/5 = 100\%$

State response

Recommendation None

Element 11 — Penalty Calculation Method: Documentation of gravity and economic benefit in initial penalty calculations using Economic Benefit of Noncompliance (BEN) model or other method to produce results consistent with national policy and guidance.

Finding 11-1 Area for State Improvement

Description Seven of nine files reviewed included gravity and economic benefit in initial penalty calculations.

Explanation One (1) file did not include the rationale for the gravity benefit calculation. Another file did not include the rationale for both the economic and gravity components of the initial penalty calculation.

Relevant metrics **11a** – Penalty calculations reviewed that consider and include gravity and economic benefit: $7/9 = 77.8\%$

State response MDE (ARMA) has already implemented this section. All initial penalty calculations will be documented.

Commented [A44]: MDE (ARMA) has already implemented this section. All initial penalty calculations will be documented.

Recommendation MDE's Enforcement Procedure, dated October 23, 2008, requires that penalties incorporated in the formal enforcement action should, where possible, recover the economic benefit of noncompliance and include an amount reflecting the gravity of the violation. Within 6 months of the date of this final report, MDE should have a template in place to document initial penalty calculations (gravity and economic benefit included) for actions referred administratively or civilly.

Element 12 — Final Penalty Assessment and Collection: Differences between initial and final penalty and collection of final penalty documented in file.

Finding 12-1 Area for State Improvement

Description Only two of the seven files reviewed documented initial penalty calculations.

Explanation The EPA penalty policy requires documentation of how adjustments were made to the preliminary deterrence amount so that enforcement attorneys, program staff and their managers learn from each other's experience and promote the fairness required by the penalty policy five of the seven files reviewed did not include documentation on the difference between the initial and final assessed penalty nor any rationale for that difference. It was clear from the file reviews and interviews with the staff that the rationale between the initial and final assessed penalty was not typically documented in the enforcement files. Therefore, the EPA Review Team interviewed an MDE attorney to determine if the documentation existed in the attorneys' files. The MDE attorney files had brief notes from the negotiations between MDE and the sources, but nothing that clearly documented the rationale for the differences between initial and final assessed penalties. The MDE attorney stated that this is typical in most cases. Therefore, this element is designated for "State Improvement".

Relevant metrics **12a** – Documentation on difference between initial and final penalty and rationale: (2/7 = 28.6%) (National Goal = 100%)

State response MDE cannot agree with this recommendation. The difference between the initial and the final penalty amount is the result of the negotiation process that takes place between the agency and the violator. There are not discrete elements of the negotiation process one can point to that lend themselves to monetary quantification. If EPA has examples of documentation methods that are acceptable, whether they are internal to EPA or the Justice Department or a tool used by other states, we would be interested in reviewing them.

Commented [A45]: MDE cannot agree with this recommendation. The difference between the initial and the final penalty amount is the result of the negotiation process that takes place between the agency and the violator. There are not discrete elements of the negotiation process one can point to that lend themselves to monetary quantification. If EPA has examples of documentation methods that are acceptable, whether they are internal to EPA or the Justice Department or a tool used by other states, we would be interested in reviewing them.

Recommendation Within six months of the date of this final report, MDE should have an SOP and template for documenting the difference between the initial and final penalty. It should clearly explain why adjustments were made to the initial deterrence amount. Region 3 will follow-up within one year to determine if the problem has been addressed and will continue to follow-up biannually until the issue is resolved.

Element 12 — Final Penalty Assessment and Collection: Differences between initial and final penalty and collection of final penalty documented in file.

Finding 12-2 Meets Expectations

Description MDE's files contain complete documentation for the collection of penalties.

Explanation In the eight files reviewed with penalties collected, there were copies of both the invoices and the checks from the companies.

Relevant metrics 12b – Penalties collected: $8/8 = 100\%$ (National Goal = 100%)

State response

Recommendation None

Resource Conservation and Recovery Act Findings

Element 1 — Data Completeness: Completeness of Minimum Data Requirements.

Finding 1-1 Area for State Improvement

| | |
|------------------|---|
| Description | In 63% of the files reviewed, all mandatory data were accurately reflected in RCRAInfo. |
| Explanation | The RCRA reviewers found inaccurate data entry related to 11 of 30 files reviewed. The single biggest issue was the failure to enter SNC data into RCRAInfo - this was found in 9 of the files reviewed. Please see Finding 2-1 for details on data accuracy issues related to non-SNC data. |
| Relevant metrics | 1a1 - Number of operating TSDFs: 11 1a2 - Number of active LQGs: 461 1a3 - Number of active SQGs: 4329 1a4 - All other active sites: 4036 1a5 - Number of BR LQGs: 107 1b1 - Number of sites inspected: 95 1b2 - Number of inspections: 103 1c1 - Number of sites with new violations during the review year: 13 1c2 - Number of sites in violation at any time during the review year regardless of determination date: 24 1d1 - Number of sites with informal enforcement actions: 9 1d2 - Number of informal enforcement actions: 9 1e1 - Number of sites with new SNC during year: 0 1e2 - Number of sites in SNC regardless of determination date: 9 1f1 - Number of sites with formal enforcement action: 10 1f2 - Number of formal enforcement actions: 10 |

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1g - Total dollar amount of final penalties: \$54,850
1h - Number of final formal actions with penalty in last FY: 3

State response

IT had been working on the Node to automatically connect TEMPO to RCRA Info, but it still doesn't work, and there are also reportedly still issues with the RCRA data handler portion that uploads hazardous facility ID numbers. Consequently, we are going to have to keep entering data into RCRA Info manually, and this takes a couple of months.

Commented [A46]: IT had been working on the Node to automatically connect TEMPO to RCRA Info, but it still doesn't work, and there are also reportedly still issues with the RCRA datahandler portion that uploads hazardous facility ID numbers. Consequently, we are going to have to keep entering data into RCRA Info manually, and this takes a couple of months.

Recommendation

Within 90 days of the issuance of this report, the State will develop and submit to EPA procedures to improve data entry with added emphasis on SNC data entry. EPA will monitor SNC data through quarterly data analysis. The recommendation will be closed once MDE demonstrates complete and accurate data entry.

Element 2 — Data Accuracy: Accuracy of Minimum Data Requirements.

Finding 2-1

Area for State Improvement

Description

In 63% of the files reviewed, all mandatory data were accurately reflected in RCRAInfo.

Explanation

We found inaccurate data entry related to 11 of 30 files reviewed. The single biggest issue was the failure to enter SNC data into RCRAInfo - this was found in 9 of the files reviewed. Other data accuracy issues were:

- Inaccurate entry of inspection date (one instance)
- Inaccurate entry of enforcement action date (two instances)
- Inspection record entered twice into RCRAInfo (one instance)
- Inspection record not entered into RCRAInfo (one instance)
- Enforcement action not entered into RCRAInfo (two instances)

Relevant metrics

2a - Long-standing secondary violators
State metric: 4
2b - Accurate entry of mandatory data
National Goal: 100%
State metric: 63%

State response Please see comment above in Element #1.

Commented [A47]: Please see comment above.

Recommendation Please see Recommendation associated with Finding 1-1.

Element 3 — Timeliness of Data Entry: Timely entry of Minimum Data Requirements.

Finding 3-1 Meets Expectations

Description All data appears to be entered in a timely manner.

Explanation We found no issues related to timeliness of data entry.

Relevant metrics 3a - Timely entry of mandatory data
National Goal: 100%
State metric: 100%

State response

Recommendation

Element 4 — Completion of Commitments: Meeting all enforcement and compliance commitments made in state/EPA agreements.

Finding 4-1 Area for State Improvement

Description The State met the majority of their grant commitments.

Explanation The RCRA reviewers found inaccurate data entry related to 11 of 30 files reviewed, so the State did not completely meet the commitment related to entry of **all** required data into RCRAInfo. For those files with inaccurate data entry, the inaccuracy was related to only one or two pieces of data - the vast majority of all required data was entered accurately.

Relevant metrics 4a - Planned non-inspection commitments completed: 83%
- Provide compliance assistance (newly regulated handlers, handlers subject to new regulations, priority industrial sectors) - commitment met
- Take timely and appropriate enforcement action - commitment met
- Enter all required data into RCRAInfo - commitment not met
- Conduct Financial Assurance evaluations of specified facilities - commitment met
- Encourage voluntary disclosure and correction of violations - commitment met
- Conduct five Compliance Assistance Activities - commitment met
Data entry concerns are covered in more detail under Elements 1 and 2 Findings.

State response Please see comment in Element #1.

Recommendation Please see Recommendation associated with Finding 1-1.

Commented [A48]: SAME COMMENT AS ABOVE:

IT had been working on the Node to automatically connect TEMPO to RCRA Info, but it still doesn't work, and there are also reportedly still issues with the RCRA databandler portion that uploads hazardous facility ID numbers. Consequently, we are going to have to keep entering data into RCRA Info manually, and this takes a couple of months.

Element 5 — Inspection Coverage: Completion of planned inspections.

Finding 5-1 Area for State Attention

Description The State met the two-year inspection coverage goal for TSDFs, and (combined with EPA) exceeded the national average for annual and five-year inspection coverage for LQGs.

Explanation The State inspected 100% of their operating TSDFs over the two-year period. The State and EPA combined efforts to meet the annual inspection goal for LQGs during the review period. The State and combined metrics exceeded the national average for five-year LQG inspection coverage. The FY12 metrics show improvement in this area, with the State metric at 80.4% and the combined metric at 88.8%, which substantially exceeds the national averages for five-year LQG inspection coverage.

Relevant metrics 5a - Two-year inspection coverage for operating TSDFs
 National Goal: 100%
 National State Average: 89.4% National Combined Average:
94.2%
 State metric: 100% Combined metric: 100%
5b - Annual inspection coverage for LQGs
 National Goal: 20%
 National State Average: 22.6% National Combined Average:
24.7%
 State metric: 19.6% Combined metric: 27.1%
5c - Five-year inspection coverage for LQGs
 National Goal: 100%
 National State Average: 62.9% National Combined Average:
67.6%
 State metric: 74.8% Combined: 83.2%
5d - Five-year inspection coverage for active SQGs: 2.0%
5e1 - Five-year inspection coverage at CESQGs: 62
5e2 - Five-year inspection coverage at Transporters: 13
5e3 - Five-year inspection coverage at Non-notifiers: 1
5e4 - Five-year inspection coverage at other sites: 314

State response

Recommendation

Element 6 — Quality of Inspection Reports: Proper and accurate documentation of observations and timely report completion.

Finding 6-1 Area for State Improvement

Description In 30% of the files reviewed, inspection reports did not contain sufficient documentation to verify the compliance determination.

Explanation There were eight inspection reports (out of 27 reviewed) with insufficient documentation to determine compliance. The inspection narratives were found to contain conclusions, but did not include the observations upon which these conclusions had been based.

In addition, in one of the eight inspections discussed above, the narrative indicated that there was no record of weekly inspection, but goes on to state that there was no violation (failure to perform weekly inspections at a LQG is a violation).

Inspection reports, document the date that the inspection was performed, but do not include the date on which the report was finalized, therefore, we were unable to determine the length of time it took for each report to be prepared. We did not see anything to suggest that reports are not completed in a timely manner (based on the date of supervisory review).

Relevant metrics 6a - Inspection reports complete and sufficient to determine compliance
 National Goal: 100%
 State metric: 70%

6b - Timeliness of inspection report completion
 National Goal: 100%
 State metric - No data available

State response EPA is concerned that MDE is not always conducting complete inspections, and is not conducting "process-based" inspections, where MDE follows the industrial process through the facility, but are instead just going to the 90-day waste storage areas, and other low-hanging fruit...

As an example, in May EPA asked for copies of 25 inspection reports, and in two of them, at sites that EPA had also inspected within the last couple of years, they noted that the MDE inspector did not apparently visit some of the parts of the facility that EPA inspected. It was not clear whether we didn't inspect the whole facility, or we did not include observations of those areas in the report; either way, it is a problem. In another instance where MDE attended an inspection with EPA, the MDE

Commented [A49]: EPA is concerned that MDE is not always conducting complete inspections, and is not conducting "process-based" inspections, where MDE follows the industrial process through the facility, but are instead just going to the 90-day waste storage areas, and other low-hanging fruit.

- As an example, in May EPA asked for copies of 25 inspection reports, and in two of them, at sites that EPA had also inspected within the last couple of years, they noted that the MDE inspector did not apparently visit some of the parts of the facility that EPA inspected. It was not clear whether we didn't inspect the whole facility, or we did not include observations of those areas in the report; either way, it is a problem. In another instance where MDE attended an inspection with EPA, the MDE inspector observed that they hadn't been to a certain part of the plant before.

EPA is also concerned about follow-up inspections where we visited a site and no one was there or couldn't get access. MDE believes that we revisit these within 60 days, but since EPA can't get the information on reinspections in RCRA Info right away, EPA doesn't know whether we've done it or not.

MDE believes that while we have improved a lot, there is much value in what EPA has to tell us. So, we are going to have a meeting with EPA, to go over the reports and determine areas where we can improve, and to discuss the focus on quality over speed.

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inspector observed that they hadn't been to a certain part of the plant before...

EPA is also concerned about follow-up inspections where we visited a site and no one was there or couldn't get access. MDE believes that we revisit these within 60 days, however, EPA cannot get the information on re-inspections in RCRA Info right away, therefore, EPA doesn't know whether we've done it or not.

MDE believes that while we have improved a great deal, there is much value in what EPA has to tell us. Therefore, we are going to have a meeting with EPA, to go over the reports and determine areas where we can improve, and to discuss the focus on quality over speed...

Recommendation Within 90 days of final report issuance, the State will develop and submit to EPA procedures to improve the quality of inspection reports. The procedures will require inclusion of observations in each inspection narrative. EPA will review inspection reports developed under the improved procedures, (over a six month period) and the recommendation will be closed once MDE demonstrates that inspection reports contain sufficient documentation to verify compliance determinations.

Element 7 — Identification of Alleged Violations: Compliance determinations accurately made and promptly reported in national database based on inspection reports and other compliance monitoring information.

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| Finding 7-1 | Area for State Improvement |
| Description | In 30% of the files reviewed, inspection reports did not contain sufficient documentation to verify the compliance determination. |
| Explanation | As 30% of inspection reports did not contain sufficient documentation to verify the compliance determination, we are not able (for these facilities) to confirm that compliance determinations have been accurately made. In addition, data review reveals that the State's violation determination rate is less than half of the national average; these two metrics suggest that compliance determinations may not all be accurate. |
| Relevant metrics | 7a - Accurate compliance determinations National Goal: 100% State metric: 70% 7b - Violations found during inspections |

National State Average: 32.5%
State metric: 14%

State response

Commented [A50]: See comment above.

Recommendation Please see Recommendation associated with Finding 6-1.

Element 8 — Identification of SNC and HPV: Accurate identification of significant noncompliance and high-priority violations, and timely entry into the national database.

| | |
|-------------|---|
| Finding 8-1 | Area for State Improvement |
| Description | It appears that SNC violators are being accurately identified, but data entry of this information is a concern (see Elements 1 and 2). |
| Explanation | <p>While no SNCs were entered into RCRAInfo for the review period, we found that appropriate enforcement actions were taken in response to violations in the vast majority of cases; we believe this issue is more of a data management problem than a SNC identification problem. Twelve files were reviewed which had inspections performed during the review period identifying violations; two of these were determined to be SV, the other 10 were determined to be SNC:</p> <ul style="list-style-type: none">- In nine instances, formal enforcement action was taken in response to violations during the review period (no SNC was entered into RCRAInfo).- In one instance, we believe a SNC designation should have been made, as the facility was inspected three times, yet did not demonstrate a return to compliance. |

Relevant metrics

- 8a - SNC identification rate
 - National State Average: 2.1%
 - State metric: 0%
- 8b - Timeliness of SNC determinations
 - National State Average: 81.7%
 - State metric: 0/0
- 8c - Appropriate SNC determinations
 - National Goal: 100%
 - State metric: 17%

State response

Recommendation Timely and accurate SNC identification is essential to assure significant compliance problems are addressed in a prompt manner, and correct data is available to the public concerning problem facilities in their community. Within 90 days of the issuance of this report, the State will develop and submit to EPA procedures to improve data entry with added emphasis on SNC data entry. EPA will monitor SNC data through quarterly data analysis. The recommendation will be closed once MDE demonstrates complete and accurate data entry.

Element 9 — Enforcement Actions Promote Return to Compliance: Enforcement actions include required corrective action that will return facilities to compliance in specified timeframe.

Finding 9-1 **Meets Expectations**

Description All enforcement actions required corrective action to return facilities to compliance, where appropriate.

Explanation Sixteen enforcement actions finalized during the review period were examined. Thirteen contained injunctive requirements addressing all violations. In the other three cases, return to compliance had been demonstrated or documented prior to the enforcement action being finalized.

Relevant metrics

- 9a - Enforcement that returns SNC sites to compliance
 - National Goal: 100%
 - State metric: 100%
- 9b - Enforcement that returns SV sites to compliance
 - National Goal: 100%
 - State metric: 100%

State response

Recommendation

Element 10 — Timely and Appropriate Action: Timely and appropriate enforcement action in accordance with policy relating to specific media.

Finding 10-1 Area for State Attention

Description Appropriate enforcement actions were taken in all but one instance.

Explanation Fifteen files were reviewed which had violations and/or enforcement actions during the review period. We found only one instance where violations may not have been addressed with an appropriate enforcement action; the facility was inspected three times, yet did not demonstrate a return to compliance, so formal enforcement would appear to the appropriate response.

Relevant metrics 10a - Timely enforcement taken to address SNC
National State Average: 81.8%
State metric: 0/0
10b - Appropriate enforcement taken to address violations
National Goal: 100%
State metric: 93%

State response

Recommendation

Element 11 — Penalty Calculation Method: Documentation of gravity and economic benefit in initial penalty calculations using BEN model or other method to produce results consistent with national policy and guidance.

| | |
|-------------------------|---|
| Finding 11-1 | Area for State Improvement |
| Description | Documentation of penalty calculations was not found in the majority of the files reviewed. Only one file contained both gravity and economic benefit. |
| Explanation | <ul style="list-style-type: none">- Files documenting consideration of both gravity and economic benefit in the penalty calculation: 1/13 (8%)- Files documenting consideration of gravity (but not economic benefit) in the penalty calculation: 3/13 (23%)- Files not containing documentation of penalty calculation: 9/13 (69%) |
| Relevant metrics | 11a - Penalty calculations include gravity and economic benefit National Goal: 100% State metric: 8% |
| State response | |

Recommendation Within 180 days of the issuance of this report, the State will develop and submit to EPA procedures to enhance documentation of penalty calculations, and assure that both economic benefit of noncompliance and gravity of violation is considered in penalties. The recommendation will be closed out once MDE demonstrates compliance with their enhanced procedures.

Element 12 — Final Penalty Assessment and Collection: Differences between initial and final penalty and collection of final penalty documented in file.

Finding 12-1 Area for State Attention

Description There is often no difference between initial and final assessed penalties. In those instances where there is a difference, documentation between these amounts was found in the files in the majority of the cases. The large majority of penalty payments were documented.

Explanation Four instances were identified where there was a difference between the initial and final penalty. In three of those four instances, documentation was in the file regarding the rationale for the final value assessed compared to the initial penalty. In one additional case, we were unable to determine the final penalty. In summary, three of five files contained documentation on the difference between the initial and final penalty.

Thirteen instances were identified with (final) formal enforcement action requiring penalty payment. In eleven instances, the files contained documentation of penalty payment. For one of the two instances where penalty payment was not documented, the final penalty amount was not

clear. In summary, 11 of 13 files contained documentation of penalty collection.

Relevant metrics 12a - Documentation on difference between initial and final penalty
National Goal: 100%
State metric: 60%
12b - Penalties collected
National Goal: 100%
State metric: 85%

State response

Recommendation Within 180 days of the issuance of this report, the State will develop and submit to EPA procedures to enhance documentation of penalty calculations, including documentation of the difference between initial and final penalty. The recommendation will be closed out once MDE demonstrates compliance with their enhanced procedures.

Appendix A: Data Metric Analysis

Attached below are the results of the SRF data metric analyses. All data metrics are analyzed prior to the on-site file review. This provides reviewers with essential advance knowledge of potential problems. It also guides the file selection process as these potential problems highlight areas for supplemental file review.

The initial findings are preliminary observations. They are used as a basis for further investigation during the file review and through dialogue with the state. Where applicable, this analysis evaluates state performance against the national goal and average. Final findings are developed only after evaluating the data alongside file review results and details from conversations with the state. Through this process, initial findings may be confirmed or modified. Final findings are presented in Section III of this report.

Appendix A: Data Metric Analysis

Clean Water Act

| Metric | Metric Name | Metric Type | Agency | Natl Goal | Natl Avg | Maryland | Count | Universe | Not Cntd | Initial Findings | Final Finding State | Explanation |
|--------|---|-------------------|--------------|-----------|----------|----------|-------|----------|----------|----------------------|---------------------|---|
| 1a1 | Number of Active NPDES Majors with Individual Permits | Data Verification | State EPA | | | 93 0 | | | | Supplemental Review. | 90 | MDE verified 79 active major traditional facilities and 11 MS4 Phase I majors. 2 majors permits inactive in ICIS-Cascades Canada Inc MD 006697and Berlin Properties North MD0002071 . Compliance for Cascade turned off 9/1/2010 and 10/1/10 for Berlin Verified data counted 92. |
| 1a2 | Number of Active NPDES Majors with General Permits | Data Verification | State EPA | | | 0 0 | | | | Supplemental Review | | All General Permits are non-major. Permits that would be classified as Majors would be issued as individual permits. |

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|-----|--|--------------------|-------|-------|-------|-------|-----|-----|-----|---------------------|------|--|
| 1a3 | Number of Active NPDES Non-Majors with Individual Permits | Data Verification | State | | | 825 | | | | Supplemental Review | 821 | Total count verified of 821 individual permits: 505 industrial/municipal permits and 316 individual stormwater permits. |
| | | | EPA | | | 0 | | | | | | |
| 1a4 | Number of Active NPDES Non-Majors with General Permits | Data Verification | State | | | 2247 | | | | Supplemental Review | 2448 | MDE verified 2448 non-major general permits. |
| | | | EPA | | | 0 | | | | | | |
| 1b1 | Permit Limits Rate for Major Facilities | Goal | State | ≥ 95% | 98.6% | 95.7% | 89 | 93 | 4 | | | |
| | | | EPA | ≥ 95% | 98.8% | 0/0 | 0 | 0 | 0 | | | |
| 1b2 | DMR Entry Rate for Major Facilities | Goal | State | ≥ 95% | 96.5% | 96.4% | 79 | 92 | 13 | Supplemental Review | | Corrected count of 79 active major traditional facilities and 11 MS4 Phase I majors. 2 majors permits inactive in ICIS- Cascades Canada Inc MD 006697 and Berlin Properties North MD0002071 . Compliance for Cascade turned off 9/1/2010 and 10/1/10 for Berlin. MS4 Phase I facilities are not required to submit DMRs. |
| | | | EPA | ≥ 95% | 98.4% | 0/0 | 0 | 0 | 0 | | | |
| 1b3 | Number of Major Facilities with a Manual Override of RNC/SNC to a Compliant Status | Data Verification | State | | | 15 | | | | Supplemental Review | | Data error for MD/VA Milk Producers Coop which was flagged for non-submittal of DMRs for outfall that has been eliminated (3 overrides. Remaining overrides addressed data errors and enforcement actions requiring linkage for violations in ICIS |
| | | | EPA | | | 0 | | | | | | |
| 1c1 | Permit Limits Rate for Non-Major Facilities | Informational only | State | | 66.1% | 61.2% | 505 | 825 | 320 | | | . |

| | | | | | | | | | | | | |
|-----|--|--------------------|-------|--|-------|-------|------|------|-----|---------------------|----|---|
| | | | EPA | | 87.5% | 0/0 | 0 | 0 | 0 | | | |
| 1c2 | DMR Entry Rate for Non-Major Facilities | Informational only | State | | 72.6% | 85.9% | 5527 | 6432 | 905 | | | |
| | | | EPA | | 87.2% | 0/0 | 0 | 0 | 0 | | | |
| 1e1 | Facilities with Informal Actions | Data Verification | State | | | 0 | | | | Supplemental Review | | MDE does not enter or upload informal enforcement action information into the national database. Informal enforcement actions are tracked in the state database, TEMPO. |
| | | | EPA | | | 0 | | | | | | |
| 1e2 | Total Number of Informal Actions at CWA NPDES Facilities | Data Verification | State | | | 0 | | | | Supplemental Review | | MDE does not enter or upload informal enforcement action information into the national database. Informal enforcement actions are tracked in the state database, TEMPO. |
| | | | EPA | | | 0 | | | | | | |
| 1f1 | Facilities with Formal Actions | Data Verification | State | | | 34 | | | | Supplemental Review | 37 | MDE verified 37 facilities with formal enforcement actions. Two actions verified at American sugar 10/14/10 PS-11-1241 and 7/18/11PS-11-1379. Two actions were also verified at the Bowie WTP ACO-10-1175 and CO-9-0786. Enforcement action codes for additional enforcement actions taken during the review period were provided resulting in a revised total number for FY2011. |
| | | | EPA | | | 0 | | | | | | |
| 1f2 | Total Number of Formal Actions at CWA NPDES Facilities | Data Verification | State | | | 34 | | | | Supplemental Review | 40 | MDE verified 40 total formal enforcement actions. Two actions verified at American Sugar 10/14/10 PS-11-1241 and 7/18/11PS-11-1379, only 1 counted and listed. Two actions verified at Rising Sun 3/7/11 SP-11-1284 and 3/7/11 (SP-12-1408) only 1 counted and listed. Also two actions at Bowie WWTP. |
| | | | EPA | | | 0 | | | | | | |

| | | | | | | | | | | | | |
|-----|--|-------------------|-------|--|-------|-----------|-----|-----|------|---------------------|----------------|--|
| 1g1 | Number of Enforcement Actions with Penalties | Data Verification | State | | | 31 | | | | | | None |
| | | | EPA | | | 0 | | | | | | |
| 1g2 | Total Penalties Assessed | Data Verification | State | | | \$347,472 | | | | Supplemental Review | | Verified |
| | | | EPA | | | \$0 | | | | | | |
| 2a1 | Number of formal enforcement actions, taken against major facilities, with enforcement violation type codes entered. | Data Verification | State | | | 4 | | | | Supplemental Review | | MDE verified 15 formal enforcement actions taken against major facilities. 4/15 or 26.6% of formal enforcement actions against majors are linked with enforcement violation type code. |
| | | | EPA | | | 0 | | | | | | |
| 5a1 | Inspection Coverage - NPDES Majors | Goal metric | State | | 54.4% | 87.7% | 80 | 93 | 13 | Supplemental Review | 79/90 or 87.7% | 79/90 or 87.7% 79/90 or 87.7% of major active permits in MD received inspections in FY2011. MDE does not enter compliance monitoring/enforcement information for 11 MS4 Phase I major facilities and 2 major permits are inactive. MDE did not perform any MS4 Phase I audits/inspections during FY 2011. |
| | | | EPA | | 3.8% | 0% | 0 | 93 | 93 | | | |
| 5b1 | Inspection Coverage - NPDES Non-Majors | Goal metric | State | | 23.7% | 15.3% | 126 | 825 | 699 | Supplemental Review | 250/821 or 30% | MDE total count verified 821 individual permits, 505 industrial and municipal permits and 316 individual stormwater permits. MDE verified 250 inspections conducted at individual non-major facilities.. Corrected inspection coverage of NPDES non-majors is 250/821 or 30.45%. |
| | | | EPA | | .8% | 0% | 0 | 825 | 825 | | | |
| 5b2 | Inspection Coverage - NPDES Non- | Goal metric | State | | 19.2% | 6.2% | 139 | 0 | 2109 | Supplemental Review | | MDE verified 113/2448 or 4.65% non-major general permit inspections were conducted in FY 2011. |

| | | | | | | | | | | | |
|-----|---|--------------------|-------|--|-------|-------|----|----|---------------------|---------------------|--|
| | Majors with General Permits | | | | | | | | | 113/2448 or 4.6% | |
| | | | EPA | | 1% | 0% | 0 | 0 | 0 | | |
| 7a1 | Number of Major Facilities with Single Event Violations | Data Verification | State | | | 4 | | | Supplemental Review | 5 | MDE verified 5 SEVs at major facilities: American Sugar – unauthorized discharge; Constellation Energy – unauthorized discharge, Mirant Dickerson – unauthorized discharge, Damascus – failure to sample, City of Frederick – failure to sample. |
| | | | EPA | | | 0 | | | | | |
| 7a2 | Number of Non-Major Facilities with Single Event Violations | Informational only | State | | | 11 | | | | | |
| | | | EPA | | | 0 | | | | | |
| 7b1 | Compliance schedule violations | Data Verification | State | | | 8 | | | | | |
| | | | EPA | | | 0 | | | | | |
| 7c1 | Permit schedule violations | Data Verification | State | | | 30 | | | Supplemental Review | | MDE verified that 19 facilities failed to comply with permit schedules in FY 2011. Enforcement actions were finalized for two of the 19 facilities in FY 2011. Follow up enforcement actions were issued in FY 2012 to address the majority of the permit schedule violations identified in FY 2011. |
| | | | EPA | | | 0 | | | | | |
| 7d1 | Major Facilities in Noncompliance | Review Indicator | State | | 71.2% | 55.9% | 52 | 93 | 41 | Supplemental Review | 79 active individual major facilities. 11 majors MS4 permits. 2 Majors permits inactive in ICIS- Cascades Canada Inc MD 006697 and Berlin Properties North MD0002071 . Compliance for Cascade turned off 9/1/2010 and 10/1/10 for Berlin. MDE verified 31 out of 90 or 34.44% of active majors in noncompliance during FY2011..MDE did |

| | | | | | | | | | | | |
|------|--|--------------------|-------|--|-------|-------|-----|-----|-----|---------------------|---|
| | | | | | | | | | | 31/90 or 34.44% | not audit or inspect 11 MS4 Phase I facilities to determine compliance. |
| | | | EPA | | 63% | 0/0 | 0 | 0 | 0 | | |
| 7f1 | Non-Major Facilities in Category 1 Noncompliance | Data Verification | State | | | 260 | | | | Supplemental review | MDE verified 149 non-major facilities in Category I noncompliance. |
| | | | EPA | | | 0 | | | | 149 | |
| 7g1 | Non-Major Facilities in Category 2 Noncompliance | Data Verification | State | | | 100 | | | | Supplemental Review | MDE verified the 100 facility count. |
| | | | EPA | | | 0 | | | | | |
| 7h1 | Non-Major Facilities in Noncompliance | Informational only | State | | | 40.2% | 332 | 825 | 493 | | |
| | | | EPA | | | 0/0 | 0 | 0 | 0 | | |
| 8a1 | Major Facilities in SNC | Review indicator | State | | | 4 | | | | | MDE verified SNC count for FY2011. |
| | | | EPA | | | 0 | | | | | |
| 8a2 | Percent of Major Facilities in SNC | Review indicator | State | | 22.3% | 4.2% | 4 | 96 | 92 | Supplemental Review | MDE verified 4/90 or 4.4% facilities in SNC for FY 2011. 79 Active individual major facilities. 11 majors MS4 permits. 2 Majors permits inactive in ICIS-Cascade and Berlin. Compliance for Cascade turned off 9/1/2010 and 10/1/10 for Berlin. |
| | | | EPA | | 29.4% | 0/0 | 0 | 0 | 0 | | |
| 10a1 | Major facilities with Timely Action as Appropriate | Goal metric | State | | | 0% | 0 | 2 | | Supplemental Review | MDE does not enter or upload this data into the national database. |
| | | | EPA | | | | 0 | 0 | | | |

Clean Air Act

| Metric Type | Metric Name | Metric Type | Agency | National Goal | National Average | Maryland | Count | Universe | Not Counted | Initial Finding | Explanation |
|---|---|-------------------|--------|---------------|------------------|----------|-------|----------|-------------|-----------------|-------------|
| 1. Data completeness. Degree to which the minimum data requirements are complete. | | | | | | | | | | | |
| 1a1 | Number of Active Major Facilities (Tier I) | Data Verification | State | | | 121 | | | | NA | NA |
| 1a2 | Number of Active Synthetic Minor Facilities (Tier I) | Data Verification | State | | | 188 | | | | NA | NA |
| 1a3 | Number of Active National Emission Standards for Hazardous Air Pollutants (NESHAP) Part 61 Minors (Tier I) | Data Verification | State | | | 1 | | | | NA | NA |
| 1a4 | Number of Active CMS Minors and Facilities with Unknown Classification (Not counted in metric 1a3) that are Federally-Reportable (Tier I) | Data Verification | State | | | 2 | | | | NA | NA |
| a5 | Number of Active HPV Minors and Facilities with Unknown Classification (Not counted in | Data Verification | State | | | 0 | | | | NA | NA |

| Metric Type | Metric Name | Metric Type | Agency | National Goal | National Average | Maryland | Count | Universe | Not Counted | Initial Finding | Explanation |
|-------------|---|-------------------|--------|---------------|------------------|----------|-------|----------|-------------|-----------------|-------------|
| | metrics 1a3 or 1a4) that are Federally-Reportable (Tier I) | | | | | | | | | | |
| 1a6 | Number of Active Minors and Facilities with Unknown Classification Subject to a Formal Enforcement Action (Not counted in metrics 1a3, 1a4, or 1a5) that are Federally-Reportable (Tier II) | Data Verification | State | | | 36 | | | | NA | NA |
| 1b1 | Number of Active Federally-Reportable New Source Performance Standards (NSPS) (40 C.F.R. Part 61) Facilities | Data Verification | State | | | 162 | | | | NA | NA |
| 1b2 | Number of Active Federally-Reportable NESHAP (40 C.F.R. Part 60) Facilities | Data Verification | State | | | 4 | | | | NA | NA |
| 1b3 | Number of Active Federally-Reportable Maximum Achievable Control Technology | Data Verification | State | | | 84 | | | | NA | NA |

| Metric Type | Metric Name | Metric Type | Agency | National Goal | National Average | Maryland | Count | Universe | Not Counted | Initial Finding | Explanation |
|-------------|---|-------------------|--------|---------------|------------------|----------|-------|----------|-------------|-----------------|-------------|
| | (MACT) (40 C.F.R. Part 63) Facilities | | | | | | | | | | |
| 1b4 | Number of Active Federally-Reportable Title V Facilities | Data Verification | State | | | 124 | | | | NA | NA |
| 1c1 | Number of Tier I Facilities with an FCE (Facility Count) | Data Verification | State | | | 116 | | | | NA | NA |
| 1c2 | Number of FCEs at Tier I Facilities (Activity Count) | Data Verification | State | | | 117 | | | | NA | NA |
| 1c3 | Number of Tier II Facilities with FCE (Facility Count) | Data Verification | State | | | 9 | | | | NA | NA |
| 1c4 | Number of Tier II Facilities (Activity Count) | Data Verification | State | | | 9 | | | | NA | NA |
| 1d1 | Number of Tier I Facilities with Noncompliance Identified (Facility count) | Data Verification | State | | | 31 | | | | NA | NA |
| 1d2 | Number of Tier II Facilities with Noncompliance Identified (Facility count) | Data Verification | State | | | 0 | | | | NA | NA |
| 1e1 | Number of Informal Enforcement Actions Issued to Tier I Facilities (Activity Count) | Data Verification | State | | | 23 | | | | NA | NA |
| 1e2 | Number of Tier I Facilities Subject to an Informal Enforcement | Data Verification | State | | | 17 | | | | NA | NA |

| Metric Type | Metric Name | Metric Type | Agency | National Goal | National Average | Maryland | Count | Universe | Not Counted | Initial Finding | Explanation |
|-------------|--|-------------------|--------|---------------|------------------|-----------|-------|----------|-------------|-----------------|-------------|
| | Action (Facility Count) | | | | | | | | | | |
| 1f1 | Number of HPVs Identified (Activity Count) | Data Verification | State | | | 7 | | | | NA | NA |
| 1f2 | Number of Facilities with an HPV Identified (Facility Count) | Data Verification | State | | | 7 | | | | NA | NA |
| 1g1 | Number of Formal Enforcement Actions Issued to Tier I Facilities (Activity Count) | Data Verification | State | | | 14 | | | | NA | NA |
| 1g2 | Number of Tier I Facilities Subject to a Formal Enforcement Action (Facility Count) | Data Verification | State | | | 11 | | | | NA | NA |
| 1g3 | Number of Formal Enforcement Actions issued to Tier II Facilities (Activity Count) | Data Verification | State | | | 3 | | | | NA | NA |
| 1g4 | Number of Tier II Facilities Subject to a Formal Enforcement Action (Facility Count) | Data Verification | State | | | 3 | | | | NA | NA |
| 1h1 | Total Amount of Assessed Penalties | Data Verification | State | | | \$464,000 | | | | NA | NA |
| 1h2 | Number of Formal Enforcement Actions with | Data Verification | State | | | 9 | | | | NA | NA |

| Metric Type | Metric Name | Metric Type | Agency | National Goal | National Average | Maryland | Count | Universe | Not Counted | Initial Finding | Explanation |
|---|---|-------------------|--------|---------------|------------------|----------|-------|----------|-------------|--------------------|---|
| | Assessed Penalty | | | | | | | | | | |
| 1i1 | Number of Stack Tests with Passing Results | Data Verification | State | | | 61 | | | | NA | NA |
| 1i2 | Number of Stack Tests with Failing Results | Data Verification | State | | | 1 | | | | NA | NA |
| 1i3 | Number of Stack Tests with Pending Results | Data Verification | State | | | 0 | | | | NA | NA |
| 1i4 | Number of Stack Tests with No Results Reported | Data Verification | State | | | 0 | | | | NA | NA |
| 1i5 | Number of Stack Tests Observed and Reviewed | Data Verification | State | | | 14 | | | | NA | NA |
| 1i6 | Number of Stack Tests Reviewed Only | Data Verification | State | | | 48 | | | | NA | NA |
| 1j | Number of Annual Title V Annual Certifications Reviewed | Data Verification | State | | | 122 | | | | NA | NA |
| 2. Data accuracy. Degree to which the minimum data requirements are accurate. | | | | | | | | | | | |
| 2a | Major Sources Missing CMS Source Category Code | Review Indicator | State | | | 0 | | | | Meets Expectations | No major sources were missing CMS Source Category Code in FY2011. |
| 3. Timeliness of data entry. Degree to which the | | | | | | | | | | | |

| Metric Type | Metric Name | Metric Type | Agency | National Goal | National Average | Maryland | Count | Universe | Not Counted | Initial Finding | Explanation |
|---|---|------------------|--------|---------------|------------------|----------|-------|----------|-------------|--------------------------|---|
| minimum data requirements are complete. | | | | | | | | | | | |
| 3a1 | Timely Entry of HPV Determinations | Review Indicator | State | | | 6 | 6 | | | Meets Expectations | NA |
| 3a2 | Untimely Entry of HPV Determinations | Goal | State | 0 | | 1 | 1 | | | Area for State Attention | One facility (Lehigh Cement - Union Bridge) took 92 days to enter. |
| 3b1 | Timely Reporting of Compliance Monitoring Minimum Data Requirements | Goal | State | 100% | 78.60% | 98% | 243 | 243 | 5 | Meets Expectations | NA |
| 3b2 | Timely Reporting of Stack Test Minimum Data Requirements | Goal | State | 100% | 75.50% | 90.30% | 56 | 62 | 6 | Meets Expectations | Days to report untimely stack tests: 127, 128, 133, 141, 154, and 195 |
| 3b3 | Timely Reporting of Enforcement Minimum Data Requirements | Goal | State | 100% | 76.10% | 98% | 48 | 49 | 1 | Meets Expectations | NA |
| 5. Inspection coverage. Degree to which state completed the universe of planned compliance evaluations. | | | | | | | | | | | |
| 5a | FCE Coverage Major | Goal | State | 100% | 90% | 100% | 57 | 57 | 0 | Meets Expectations | NA |
| 5b | FCE Coverage SM-80 | Goal | State | 100% | 90.60% | 100% | 52 | 52 | 0 | Meets Expectations | NA |
| 5c | FCE Coverage Synthetic Minor (non SM-80) | Goal | State | | | | 0 | 0 | 0 | NA | NA |
| 5d | FCE Coverage Minor | Goal | State | | | | 0 | 0 | 0 | NA | NA |

| Metric Type | Metric Name | Metric Type | Agency | National Goal | National Average | Maryland | Count | Universe | Not Counted | Initial Finding | Explanation |
|---|--|------------------|--------|---------------|------------------|----------|-------|----------|-------------|--------------------------|--|
| 5e | Review of Title V Annual Certifications Completed | Goal | State | 100% | 72.50% | 94.40% | 117 | 124 | 7 | Meets Expectations | 2 of the 7 not completed were at SM sources. |
| 7. Identification of alleged violations. Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information. | | | | | | | | | | | |
| 7b1 | Alleged Violations Reported Per Informal Enforcement Actions (Tier I Only) | Goal | State | 100% | 62.20% | 88.20% | 15 | 17 | 2 | Area for State Attention | The 2 facilities that were "not counted" were SM sources that the compliance status was not changed. |
| 7b2 | Alleged Violations Reported Per Failed Stack Tests | Review Indicator | State | | 54% | 100% | 1 | 1 | 0 | Meets Expectations | NA |
| 7b3 | Alleged Violations Reported Per HPV Identified | Goal | State | 100% | 69.60% | 100% | 6 | 6 | 0 | Meets Expectations | All 6 HPVs identified during FY2011 were reported as either "in violation" or "meeting schedule". |
| 8. Identification of SNC and | | | | | | | | | | | |

| Metric Type | Metric Name | Metric Type | Agency | National Goal | National Average | Maryland | Count | Universe | Not Counted | Initial Finding | Explanation |
|---|---|------------------|--------|---------------|------------------|----------|-------|----------|-------------|--------------------|---|
| HPV. Degree to which the state accurately identifies noncompliance & high priority violations and enters information into the national system in a timely manner. | | | | | | | | | | | |
| 8a | HPV Discovery Rate Per Major Facility Universe | Review Indicator | State | | 3.90% | 5% | 6 | 121 | 115 | Meets Expectations | Above national average. |
| 8b | HPV Reporting at Majors with Failed Stack Tests | Review Indicator | State | | 20.50% | 0/0 | 0 | 0 | 0 | Meets Expectations | |
| 10. Timely and Appropriate Action. Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media | | | | | | | | | | | |
| 10a | HPV Cases with meet the timeliness goal of the HPV Policy | Review Indicator | State | | 63.70% | 85.70% | 6 | 7 | 1 | Meets Expectations | The 1 facility that did not meet the timeliness goal (BWI Airport) also came up in Round 2. Day Zero was 9/28/07 and it was addressed 12/29/10. It is a state-owned facility. |

Clean Water Act

| Metric | Metric Name | Metric Type | Agency | Natl Goal | Natl Avg | Maryland | Count | Univers e | Not Cntd | Initial Findings | Final Finding State | Explanation |
|--------|---|-------------------|--------------|-----------|----------|-----------|-------|-----------|----------|----------------------|---------------------|--|
| 1a1 | Number of Active NPDES Majors with Individual Permits | Data Verification | State EPA | | | 93 0 | | | | Supplemental Review. | 90 | MDE verified 79 active major traditional facilities and 11 MS4 Phase I majors. 2 majors permits inactive in ICIS- Cascades Canada Inc MD 006697and Berlin Properties North MD0002071 . Compliance for Cascade turned off 9/1/2010 and 10/1/10 for Berlin Verified data counted 92. |
| 1a2 | Number of Active NPDES Majors with General Permits | Data Verification | State EPA | | | 0 0 | | | | Supplemental Review | | All General Permits are non-major. Permits that would be classified as Majors would be issued as individual permits. |
| 1a3 | Number of Active NPDES Non-Majors with Individual Permits | Data Verification | State EPA | | | 825 0 | | | | Supplemental Review | 821 | Total count verified of 821 individual permits: 505 industrial/municipal permits and 316 individual stormwater permits. |
| 1a4 | Number of Active NPDES Non-Majors with General Permits | Data Verification | State EPA | | | 2247 0 | | | | Supplemental Review | 2448 | MDE verified 2448 non-major general permits. |
| 1b1 | Permit Limits Rate for Major Facilities | Goal | State | ≥ 95% | 98.6% | 95.7% | 89 | 93 | 4 | | | |
| | | | EPA | ≥ 95% | 98.8% | 0/0 | 0 | 0 | 0 | | | |
| 1b2 | DMR Entry Rate for Major Facilities | Goal | State | ≥ 95% | 96.5% | 96.4% | 79 | 92 | 13 | Supplemental Review | | Corrected count of 79 active major traditional facilities and 11 MS4 Phase I majors. 2 majors permits inactive in |

| | | | | | | | | | | | |
|-----|--|--------------------|-------|-----|-------|-------|------|------|-----|---------------------|--|
| | | | | | | | | | | | ICIS- Cascades Canada Inc MD 006697 and Berlin Properties North MD0002071 . Compliance for Cascade turned off 9/1/2010 and 10/1/10 for Berlin. MS4 Phase I facilities are not required to submit DMRs. |
| | | | EPA | 95% | 98.4% | 0/0 | 0 | 0 | 0 | | |
| 1b3 | Number of Major Facilities with a Manual Override of RNC/SNC to a Compliant Status | Data Verification | State | | | 15 | | | | Supplemental Review | Data error for MD/VA Milk Producers Coop which was flagged for non-submittal of DMRs for outfall that has been eliminated (3 overrides. Remaining overrides addressed data errors and enforcement actions requiring linkage for violations in ICIS |
| | | | EPA | | | 0 | | | | | |
| 1c1 | Permit Limits Rate for Non-Major Facilities | Informational only | State | | 66.1% | 61.2% | 505 | 825 | 320 | | . |
| | | | EPA | | 87.5% | 0/0 | 0 | 0 | 0 | | |
| 1c2 | DMR Entry Rate for Non-Major Facilities | Informational only | State | | 72.6% | 85.9% | 5527 | 6432 | 905 | | |
| | | | EPA | | 87.2% | 0/0 | 0 | 0 | 0 | | |
| 1e1 | Facilities with Informal Actions | Data Verification | State | | | 0 | | | | Supplemental Review | MDE does not enter or upload informal enforcement action information into the national database. Informal enforcement actions are tracked in the state database, TEMPO. |
| | | | EPA | | | 0 | | | | | |
| 1e2 | Total Number of Informal Actions at CWA NPDES Facilities | Data Verification | State | | | 0 | | | | Supplemental Review | MDE does not enter or upload informal enforcement action information into the national database. Informal enforcement actions are tracked in the state database, TEMPO. |
| | | | EPA | | | 0 | | | | | |
| 1f1 | Facilities with Formal Actions | Data Verification | State | | | 34 | | | | Supplemental Review | MDE verified 37 facilities with formal enforcement actions. Two actions verified at American sugar 10/14/10 PS- |

| | | | | | | | | | | | |
|-----|--|-------------------|-------|--|-------|-----------|----|----|---------------------|---------------------|--|
| | | | | | | | | | | 37 | 11-1241 and 7/18/11PS-11-1379. Two actions were also verified at the Bowie WTP ACO-10-1175 and CO-9-0786. Enforcement action codes for additional enforcement actions taken during the review period were provided resulting in a revised total number for FY2011. |
| | | | EPA | | | 0 | | | | | |
| 1f2 | Total Number of Formal Actions at CWA NPDES Facilities | Data Verification | State | | | 34 | | | Supplemental Review | 40 | MDE verified 40 total formal enforcement actions. Two actions verified at American Sugar 10/14/10 PS-11-1241 and 7/18/11PS-11-1379, only 1 counted and listed. Two actions verified at Rising Sun 3/7/11 SP-11-1284 and 3/7/11 (SP-12-1408) only 1 counted and listed. Also two actions at Bowie WWTP. |
| | | | EPA | | | 0 | | | | | |
| 1g1 | Number of Enforcement Actions with Penalties | Data Verification | State | | | 31 | | | | | None |
| | | | EPA | | | 0 | | | | | |
| 1g2 | Total Penalties Assessed | Data Verification | State | | | \$347,472 | | | Supplemental Review | | Verified |
| | | | EPA | | | \$0 | | | | | |
| 2a1 | Number of formal enforcement actions, taken against major facilities, with enforcement violation type codes entered. | Data Verification | State | | | 4 | | | Supplemental Review | | MDE verified 15 formal enforcement actions taken against major facilities. 4/15 or 26.6% of formal enforcement actions against majors are linked with enforcement violation type code. |
| | | | EPA | | | 0 | | | | | |
| 5a1 | Inspection Coverage - NPDES Majors | Goal metric | State | | 54.4% | 87.7% | 80 | 93 | 13 | Supplemental Review | 79 /90 or 87.7% of major active permits in MD received inspections in FY2011. MDE does not enter compliance |

| | | | | | | | | | | | | |
|-----|---|--------------------|-------|--|-------|-------|-----|-----|------|---------------------|---|--|
| | | | | | | | | | | 79/90 or 87.7% | monitoring/enforcement information for 11 MS4 Phase I major facilities and 2 major permits are inactive. MDE did not perform any MS4 Phase I audits/inspections during FY 2011. | |
| | | | EPA | | 3.8% | 0% | 0 | 93 | 93 | 79/90 or 87.7% | | |
| 5b1 | Inspection Coverage - NPDES Non-Majors | Goal metric | State | | 23.7% | 15.3% | 126 | 825 | 699 | Supplemental Review | 250/821 or 30% | MDE total count verified 821 individual permits, 505 industrial and municipal permits and 316 individual stormwater permits. MDE verified 250 inspections conducted at individual non-major facilities.. Corrected inspection coverage of NPDES non-majors is 250/821 or 30.45%. |
| | | | EPA | | .8% | 0% | 0 | 825 | 825 | | | |
| 5b2 | Inspection Coverage - NPDES Non-Majors with General Permits | Goal metric | State | | 19.2% | 6.2% | 139 | 0 | 2109 | Supplemental Review | 113/2448 or 4.6% | MDE verified 113/2448 or 4.65% non-major general permit inspections were conducted in FY 2011. |
| | | | EPA | | 1% | 0% | 0 | 0 | 0 | | | |
| 7a1 | Number of Major Facilities with Single Event Violations | Data Verification | State | | | 4 | | | | Supplemental Review | 5 | MDE verified 5 SEVs at major facilities: American Sugar – unauthorized discharge; Constellation Energy – unauthorized discharge, Mirant Dickerson – unauthorized discharge, Damascus – failure to sample, City of Frederick – failure to sample. |
| | | | EPA | | | 0 | | | | | | |
| 7a2 | Number of Non-Major Facilities with Single Event Violations | Informational only | State | | | 11 | | | | | | |
| | | | EPA | | | 0 | | | | | | |
| 7b1 | Compliance schedule violations | Data Verification | State | | | 8 | | | | | | |

| | | | | | | | | | | | | |
|-----|--|--------------------|-------|--|-------|-------|-----|-----|-----|---------------------|-----------------|---|
| | | | EPA | | | 0 | | | | | | |
| 7c1 | Permit schedule violations | Data Verification | State | | | 30 | | | | Supplemental Review | | MDE verified that 19 facilities failed to comply with permit schedules in FY 2011. Enforcement actions were finalized for two of the 19 facilities in FY 2011. Follow up enforcement actions were issued in FY 2012 to address the majority of the permit schedule violations identified in FY 2011. |
| | | | EPA | | | 0 | | | | | | |
| 7d1 | Major Facilities in Noncompliance | Review Indicator | State | | 71.2% | 55.9% | 52 | 93 | 41 | Supplemental Review | 31/90 or 34.44% | 79 active individual major facilities. 11 majors MS4 permits. 2 Majors permits inactive in ICIS- Cascades Canada Inc MD 006697and Berlin Properties North MD0002071 . Compliance for Cascade turned off 9/1/2010 and 10/1/10 for Berlin. MDE verified 31 out of 90 or 34.44% of active majors in noncompliance during FY2011..MDE did not audit or inspect 11 MS4 Phase I facilities to determine compliance. |
| | | | EPA | | 63% | 0/0 | 0 | 0 | 0 | | | |
| 7f1 | Non-Major Facilities in Category 1 Noncompliance | Data Verification | State | | | 260 | | | | Supplemental review | 149 | MDE verified 149 non-major facilities in Category I noncompliance. |
| | | | EPA | | | 0 | | | | | | |
| 7g1 | Non-Major Facilities in Category 2 Noncompliance | Data Verification | State | | | 100 | | | | Supplemental Review | | MDE verified the 100 facility count. |
| | | | EPA | | | 0 | | | | | | |
| 7h1 | Non-Major Facilities in Noncompliance | Informational only | State | | | 40.2% | 332 | 825 | 493 | | | |
| | | | EPA | | | 0/0 | 0 | 0 | 0 | | | |

| | | | | | | | | | | | | |
|------|--|------------------|-------|--|-------|------|---|----|----|---------------------|--------------|---|
| 8a1 | Major Facilities in SNC | Review indicator | State | | | 4 | | | | | | MDE verified SNC count for FY2011. |
| | | | EPA | | | 0 | | | | | | |
| 8a2 | Percent of Major Facilities in SNC | Review indicator | State | | 22.3% | 4.2% | 4 | 96 | 92 | Supplemental Review | 4/90 or 4.4% | MDE verified 4/90 or 4.4% facilities in SNC for FY 2011. 79 Active individual major facilities. 11 majors MS4 permits. 2 Majors permits inactive in ICIS-Cascade and Berlin. Compliance for Cascade turned off 9/1/2010 and 10/1/10 for Berlin. |
| | | | EPA | | 29.4% | 0/0 | 0 | 0 | 0 | | | |
| 10a1 | Major facilities with Timely Action as Appropriate | Goal metric | State | | | 0% | 0 | 2 | 2 | Supplemental Review | | MDE does not enter or upload this data into the national database. |
| | | | EPA | | | | 0 | 0 | | | | |

RCRA DMA

| Metric ID | Metric Name | Metric Type | Agency | National Goal | National Average | Maryland | Count | Universe | Not Counted | Initial Finding |
|-----------|--|-------------------|--------|---------------|------------------|----------|-------|----------|-------------|-----------------|
| 1a1 | Number of operating TSDFs | Data Verification | State | | | 11 | | | | |
| | | | EPA | | | 11 | | | | |
| 1a2 | Number of active LQGs | Data Verification | State | | | 461 | | | | |
| | | | EPA | | | 461 | | | | |
| 1a3 | Number of active SQGs | Data Verification | State | | | 4329 | | | | |
| | | | EPA | | | 4329 | | | | |
| 1a4 | All other active sites | Data Verification | State | | | 4036 | | | | |
| | | | EPA | | | 4036 | | | | |
| 1a5 | Number of BR LQGs | Data Verification | State | | | 107 | | | | |
| | | | EPA | | | 107 | | | | |
| 1b1 | Number of sites inspected | Data Verification | State | | | 94 | | | | |
| | | | EPA | | | 15 | | | | |
| 1b2 | Number of inspections | Data Verification | State | | | 103 | | | | |
| | | | EPA | | | 15 | | | | |
| 1c1 | Number of sites with new violations during review year | Data Verification | State | | | 13 | | | | |
| | | | EPA | | | 11 | | | | |
| 1c2 | Number of sites in violation at any time during the review year regardless of determination date | Data Verification | State | | | 24 | | | | |
| | | | EPA | | | 26 | | | | |
| 1d1 | Number of sites with informal enforcement actions | Data Verification | State | | | 9 | | | | |
| | | | EPA | | | 12 | | | | |
| 1d2 | Number of informal enforcement actions | Data Verification | State | | | 9 | | | | |

| | | | | | | | | | | |
|-----|--|-------------------|----------|------|-------|-----------|----|-----|----|--------------------------|
| | | | EPA | | | 12 | | | | |
| 1e1 | Number of sites with new SNC during year | Data Verification | State | | | 0 | | | | |
| | | | EPA | | | 2 | | | | |
| 1e2 | Number of sites in SNC regardless of determination date | Data Verification | State | | | 9 | | | | |
| | | | EPA | | | 9 | | | | |
| 1f1 | Number of sites with formal enforcement actions | Data Verification | State | | | 10 | | | | |
| | | | EPA | | | 3 | | | | |
| 1f2 | Number of formal enforcement actions | Data Verification | State | | | 10 | | | | |
| | | | EPA | | | 3 | | | | |
| 1g | Total dollar amount of final penalties | Data Verification | State | | | \$54,850 | | | | |
| | | | EPA | | | \$570,000 | | | | |
| 1h | Number of final formal actions with penalty in last 1 FY | Data Verification | State | | | 2 | | | | |
| | | | EPA | | | 1 | | | | |
| 2a | Long-standing secondary violators | Review Indicator | State | | | 4 | | | | |
| | | | EPA | | | 5 | | | | |
| 5a | Two-year inspection coverage for operating TSDFs | Goal | State | 100% | 89.4% | 100% | 11 | 11 | 0 | |
| | | | Combined | 100% | 94.2% | 100% | 11 | 11 | 0 | Meets expectations |
| 5b | Annual inspection coverage for LQGs | Goal | State | 20% | 22.6% | 19.6% | 21 | 107 | 86 | |
| | | | Combined | 20% | 24.7% | 27.1% | 29 | 107 | 78 | Meets expectations |
| 5c | Five-year inspection coverage for LQGs | Goal | State | 100% | 62.9% | 74.8% | 80 | 107 | 27 | Area for State attention |

| | | | | | | | | | | |
|-----|--|--------------------|----------|------|-------|-------|-----|------|------|--------------------------------|
| | | | Combined | 100% | 67.6% | 83.2% | 89 | 107 | 18 | |
| 5d | Five-year inspection coverage for active SQGs | Informational Only | State | | 11% | 2.2% | 97 | 4329 | 4232 | |
| | | | Combined | | 11.6% | 2.4% | 106 | 4329 | 4223 | |
| 5e1 | Five-year inspection coverage at other sites (CESQGs) | Informational Only | State | | | 62 | | | | |
| | | | Combined | | | 69 | | | | |
| 5e2 | Five-year inspection coverage at other sites (Transporters) | Informational Only | State | | | 13 | | | | |
| | | | Combined | | | 13 | | | | |
| 5e3 | Five-year inspection coverage at other sites (Non-notifiers) | Informational Only | State | | | 1 | | | | |
| | | | Combined | | | 1 | | | | |
| 5e4 | Five-year inspection coverage at other sites (not covered by metrics 5a-5e3) | Informational Only | State | | | 314 | | | | |
| | | | Combined | | | 314 | | | | |
| 7b | Violations found during inspections | Review Indicator | State | | 32.5% | 14% | 13 | 93 | 80 | |
| | | | EPA | | 33.2% | 73.3% | 11 | 15 | 4 | |
| 8a | SNC identification rate | Review Indicator | State | | 2.1% | 0% | 0 | 96 | 96 | Area for State improvement |
| | | | EPA | | 5.2% | 12.5% | 2 | 16 | 14 | |
| 8b | Timeliness of SNC determinations | Goal | State | 100% | 81.7% | 0/0 | 0 | 0 | 0 | Unable to assess - no activity |
| | | | EPA | 100% | 72.2% | 100% | 2 | 2 | 0 | |
| 10a | Timely enforcement taken to address SNC | Review Indicator | State | 80% | 81.8% | 0/0 | 0 | 0 | 0 | Unable to assess - no activity |
| | | | EPA | 80% | 33.3% | 100% | 1 | 1 | 0 | |

Appendix B: File Metric Analysis

This section presents file metric values with EPA's initial observations on program performance. Initial findings are developed by EPA at the conclusion of the file review.

Initial findings indicate whether there is a potential issue and the nature of the issue. These findings are developed after comparing the data metrics to the file metrics and discussing these findings with MDE.

Final findings are presented above in the CWA Findings section and are provided by element.

Because of limited sample size, statistical comparisons among programs or across states cannot be made.

State: Maryland

| CWA Metric # | Description | Numerator | Denominator | Metric Value | Goal | Initial Findings | Final Findings | Details |
|--------------|---|-----------|-------------|--------------|------|----------------------------|----------------------------|--|
| 2b | Percentage of files reviewed where data in the file are accurately reflected in the national data systems | 12 | 48 | 25% | 95% | Area for State Improvement | Area for State Improvement | Inspection and enforcement files reviewed frequently did not match data in ICIS and/or MDE did not enter minimum required data (WENDB) into ICIS. |
| 3a | Timeliness of mandatory data entered in the national data system | 17 | 48 | 35.4% | 100% | Area for State Improvement | Area for State Improvement | MDE frequently did not enter the minimum required data (WENDB) on a timely basis into ICIS. The file review determined that inspection reports and enforcement actions for majors and non-majors were not entered into the national database in FY 2011. MDE did not enter CAFO, |

Commented [A51]: • THIS COMMENT APPLIES ALSO TO Appendix B 3a and 4b)MDE notes that we have not committed to enter some RIDE data into ICIS-NPDES, including single wet weather events (such as SSO events) and CAFO inspections. MDE is continuing to negotiate with EPA Region III regarding the commitments for data entry for the RIDE elements. MDE can enter CAFO inspection data. MDE maintains a list of CSOs, SSOs, and bypasses on its webpage that EPA can use at any time to gather data about those single event violations. MDE's staff limitations do not allow it to maintain this public database of these events and also perform dual-entry of the data into ICIS. MDE currently enter into ICIS and will continue to enter for FY 2012, all facility data and permit tracking elements listed in the ICIS-NPDES SYSTEM WORK PLAN except "Draft Permit/Public Notice" information."

Based on this prior understanding it is incorrect for EPA to do an SRF that criticizes MDE for not entering all SEVs into ICIS during 2011. MDE has recently advised EPA that it wants to discuss SEVs, EPA's interim wet weather SNC policy and economic benefit determinations to fully understand EPA's requirements and expectations. MDE will then develop plans for EPA review and approval that accurately describe what additional actions MDE will take to fulfill specific deliverables and the time lines to do so. The exact language in the FY2011 Work Plan reads as follows:

•Enter all agreed upon RIDE data requirements into ICIS. In the event that MDE anticipates that it will be unable to perform any of the listed ICIS data entry due to circumstances beyond its reasonable control, it will notify the Region of the cause(s) and provide a target date when the data will be entered into ICIS. In certain situations MDE may request data entry assistance from the Region until the problem(s) preventing the data entry can be resolved. Within its resource limitations, EPA commits to assist in these situations. *MDE notes that we have not committed to enter some RIDE data into ICIS-NPDES, including single wet weather events (such as SSO events) and CAFO inspections. MDE is continuing to negotiate with EPA Region III regarding the commitments for data entry for the RIDE elements. MDE can enter CAFO inspection data. MDE maintains a list of CSOs, SSOs, and bypasses on its webpage that EPA can use at any time to gather data about those single event violations. MDE's staff limitations do not allow it to maintain this public database of these events and also perform dual-entry of the data into ICIS. MDE currently enter into ICIS and will continue to enter for FY 2011, all facility data and permit tracking elements listed in the ICIS-NPDES SYSTEM WORK PLAN except "Draft Permit/Public Notice" information. MDE notes that we have not committed to enter some RIDE data into ICIS-NPDES, including single wet weather events (such as SSO events) and CAFO inspections. MDE is continuing to negotiate with EPA Region III

| | | | | | | | |
|----|---|---|---|-----|------|----------------------------|---|
| 4b | CWA compliance and enforcement commitments other than CMS commitments, including work products/commitments in PPAs, PPGs, grant agreements, MOAs, MOUs or other relevant agreements | 3 | 6 | 50% | 100% | Area for State Improvement | MS4 and Stormwater Construction data into the national database although the data is available through the state data systems. |
| | | | | | | | MDE has not completed all of its commitments for its FY 2011 compliance monitoring strategy (CMS). MDE did not enter all WENDB (or RIDE) data elements into ICIS during FY2011 for entry of non-major data elements, MS4 Phase I facilities, and CAFOs (MOA/106). Several of the MDE SRF Round 2 recommendations are outstanding and remain unaddressed. MDE did not meet all of its commitments under FY 2011 enforcement work plans for MS4 facilities 106/enforcement work plans). |

| | | | | | | | | |
|------------|--|-----|------|--------|--------|----------------------------|----------------------------|---|
| 5a1 | Percentage of planned inspections completed: Majors | 79 | 90 | 87.7% | 100.0% | Area for State Attention | Area for State Attention | The number of NPDES major facilities inspected in FY 2011 was 79 out of 90 or 87.7% major facilities. MDE did not perform any audits/inspections at MS4 Phase I facilities. |
| 5b1 | Percentage of planned inspections completed: Individual non-majors | 250 | 821 | 30.45% | 100% | Meets Requirement | Meets Requirement | There are 821 NPDES Non-majors with individual permits and 250 inspections were conducted in FY 2011, which yields 30.7%. The national average for 5b1 is 23.7% |
| 5b2 | Percentage of planned inspections completed: General non-majors | 113 | 2448 | 4.6% | 100% | Area for State Improvement | Area for State Improvement | There are 2488 NPDES Non-majors with general permits, and 113 inspections were conducted in FY2011 (4.6%). The 2007 CMS federal guidance requires that states inspect approx. 10% annually of the General Non-Major universe. The national average is 19.2%. |
| 6a | Percentage of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance | 35 | 39 | 89.7% | 100% | Meets Requirement | Meets Requirement | EPA's file review identified 35 of 39 or 89.7% of inspection files reviewed that provided sufficient documentation to determine compliance. Inspection reports lacking sufficient documentation required supplemental narrative or additional evidence to determine compliance. |

| | | | | | | | | |
|-----------|--|----|----|--------|------|----------------------------|----------------------------|---|
| 6b | Inspection reports completed within the prescribed time frame: Percentage of inspection reports reviewed that are timely | 30 | 39 | 76.9% | 100% | Area for State Improvement | Area for State Improvement | Reviewers had difficulty determining the timeliness of the MDE inspection reports reviewed because the reports routinely did not include inspection times, dates and signatures. |
| 7e | Inspection reports reviewed that led to an accurate compliance determination | 34 | 39 | 87.2.% | 100% | Area for State Attention | Area for State Attention. | Five inspection reports reviewed did not include sufficient narrative information to make an accurate compliance determination. |
| 8b | Percentage of single event violation(s) that are accurately identified as SNC or Non-SNC | 1 | 9 | 11.1% | 100% | Area for State Improvement | Area for State Improvement | MDE does not routinely identify SEV/SNC during inspections. Entry of SEVs for non-major facilities into the national database is not mandatory if a state provides EPA the data from the state's database. Currently, MDE does not provide EPA SEV non-major data or enter that data into ICIS. |
| 8c | Percentage of SEVs Identified | 1 | 2 | 50.0% | 100% | Area for State Improvement | Area for State | MDE identified and reported 1 SEV out of 2 (two) for major facilities in SNC in FY 2011. |

| | | | | | | | | |
|------------|--|----|----|-------|------|----------------------------|----------------------------|--|
| | as SNC reported timely | | | | | | Improvement | MDE does not routinely identify and report SEV as SNC at major facilities. |
| 9a | Percentage of enforcement responses that return or will return source in SNC to compliance | 14 | 21 | 66.7% | 100% | Area for State Improvement | Area for State Improvement | MDE enforcement responses returned facilities to compliance in 14 of 21 enforcement files reviewed by EPA. MDE enforcement responses do not consistently return violating facilities to compliance. |
| 10b | Enforcement responses reviewed that address violations in a timely manner | 18 | 21 | 85.7% | 100% | Area for State Attention | Area for State Attention | EPA reviewed 21 enforcement files addressing SNC and non-SNC violations. MDE addressed violating facilities in a timely and appropriate manner in 18 of 21 or 85.7% of the files reviewed by EPA. MDE did not take appropriate action in 3 of the files reviewed due to the violations requiring formal enforcement or formal enforcement was taken with no penalty. |
| 11a | Percentage of penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit | 0 | 17 | 0% | 100% | Area for State Improvement | Area for State Improvement | MDE does not consider and calculate economic benefit in its penalty calculations. |

| | | | | | | | | |
|------------|---|----|----|-------|------|----------------------------|----------------------------|---|
| 12a | Percentage of penalties reviewed that document the difference between the initial and final assessed penalty, and the rationale for that difference | 8 | 17 | 47.1% | 100% | Area for State Improvement | Area for State Improvement | MDE did not routinely include penalty calculation worksheets in the enforcement case files. MDE does have a penalty calculation sheet that MDE staff should use when calculating a penalty. |
| 12b | Percentage of penalty files reviewed that document collection of penalty | 14 | 17 | 82.4% | 100% | Area for State Attention | Area for State Attention | 14 penalties files reviewed by EPA contained sufficient documentation for collection of the penalties. The EPA review identified 3 enforcement files without documentation of the penalty collection. |

Clean Air File Metrics Analysis

State: Maryland (MDE)

Year Reviewed: FY 2011

| CAA Metric # | CAA File Review Metric Description | Numerator | Denominator | Percentage | Goal | Initial Findings | Details |
|--------------|---|-----------|-------------|------------|------|--------------------|---|
| 2b | Accurate MDR data in AFS: Percentage of files reviewed where MDR data are accurately reflected in AFS | 23 | 27 | 85.2% | 100% | State Attention | Data from 4 files was not consistent with what was reported to AFS. One file listed a PCE, however an FCE was incorrectly reported to AFS. The other 3 files had incorrect inspection dates reported to AFS. This is occurring when FCEs are performed at gas stations by an MDE contractor. The contractor does not submit the inspection reports timely to MDE. Upon receipt, MDE reviews the report and enters the date of receipt in AFS instead of the actual inspection date. This results in inconsistencies between the data in the enforcement file and what is reported to AFS. |
| 4a1 | Planned evaluations completed: Title V Major FCEs | 59 | 59 | 100.0% | 100% | Meets Expectations | |
| 4a2 | Planned evaluations completed: SM-80 FCEs | 56 | 34 | 164.7% | 100% | Meets Expectations | |

Clean Air File Metrics Analysis

State: Maryland (MDE)

Year Reviewed: FY 2011

| CAA Metric # | CAA File Review Metric Description | Numerator | Denominator | Percentage | Goal | Initial Findings | Details |
|--------------|---|-----------|-------------|------------|------|--------------------|--|
| 4b | Planned commitments completed: CAA compliance and enforcement commitments other than CMS commitments | 9 | 9 | 100.0% | 100% | Meets Expectations | MDE exceeded its FY2011 SM-80 commitment. |
| 6a | Documentation of FCE elements: Percentage of FCEs in the files reviewed that meet the definition of a FCE per the CMS policy | 9 | 15 | 60.0% | 100% | State Improvement | 6 of 15 files were only missing enforcement history. |
| 6b | Compliance Monitoring Reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility: Percentage of CMRs or facility files reviewed that provide sufficient documentation to determine facility compliance | 15 | 15 | 100.0% | 100% | Meets Expectations | |
| 7a | Accuracy of compliance determinations: Percentage of CMRs or facility files reviewed that led to accurate compliance determinations | 15 | 15 | 100.0% | 100% | Meets Expectations | |

Clean Air File Metrics Analysis

State: Maryland (MDE)

Year Reviewed: FY 2011

| CAA Metric # | CAA File Review Metric Description | Numerator | Denominator | Percentage | Goal | Initial Findings | Details |
|--------------|--|-----------|-------------|------------|------|--------------------|---------|
| 8c | Accuracy of HPV determinations: Percentage of violations in files reviewed that were accurately determined to be HPVs | 17 | 18 | 94.4% | 100% | Meets Expectations | |
| 9a | Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame: Percentage of formal enforcement responses reviewed that include required corrective actions that will return the facility to compliance in a specified time frame | 11 | 11 | 100.0% | 100% | Meets Expectations | |
| 10a | Timely action taken to address HPVs: Percentage of HPV addressing actions that meet the timeliness standard in the HPV Policy | 5 | 5 | 100.0% | 100% | Meets Expectations | |
| 10b | Appropriate Enforcement Responses for HPVs: Percentage of enforcement responses for HPVs that | 5 | 5 | 100.0% | 100% | Meets Expectations | |

Clean Air File Metrics Analysis

State: Maryland (MDE)

Year Reviewed: FY 2011

| CAA Metric # | CAA File Review Metric Description | Numerator | Denominator | Percentage | Goal | Initial Findings | Details |
|--------------|--|-----------|-------------|------------|------|--------------------|--|
| | appropriately address the violations | | | | | | |
| 11a | Penalty calculations reviewed that consider and include gravity and economic benefit: Percentage of penalty calculations reviewed that consider and include, where appropriate, gravity and economic benefit | 7 | 9 | 77.8% | 100% | State Improvement | 2 of the 9 files reviewed did not document initial penalty calculations. |
| 12a | Documentation on difference between initial and final penalty and rationale: Percentage of penalties reviewed that document the difference between the initial and final assessed penalty, and the rationale for that difference | 2 | 7 | 28.6% | 100% | State Improvement | 5 of the 7 files reviewed did not document the difference between the initial and final assessed penalty |
| 12b | Penalties collected: Percentage of penalty files reviewed that document collection of penalty | 8 | 8 | 100.0% | 100% | Meets Expectations | |

Clean Air File Metrics Analysis**State: Maryland (MDE)****Year Reviewed: FY 2011**

| CAA Metric # | CAA File Review Metric Description | Numerator | Denominator | Percentage | Goal | Initial Findings | Details |
|-------------------------------|------------------------------------|-----------|-------------|------------|------|------------------|---------|
| Finding Category Descriptions | | | | | | | |

Good Practice: Activities, processes, or policies that the SRF metrics show are being implemented at the level of Meets Expectations, are innovative and noteworthy and can serve as models for other states.

Meets Expectations: Describes a situation where either: a) no performance deficiencies are identified, or b) single or infrequent deficiencies are identified that do not constitute a pattern or problem. Generally, states are meeting expectations when falling between 91 to 100 percent of a national goal.

Area for State Attention: The state has single or infrequent deficiencies that constitute a minor pattern or problem that does not pose a risk to human health or the environment. Generally, performance requires state attention when the state falls between 85 to 90 percent of a national goal.

Area for State Improvement: Activities, processes, or policies that SRF data and/or file metrics show as major problems requiring EPA oversight. These will generally be significant recurrent issues. However, there may be instances where single or infrequent cases reflect a major problem, particularly in instances where the total number of facilities under consideration is small. Generally, performance requires state improvement when the state falls below 85 percent of a national goal.

RCRA File Metric Analysis

| RCRA Metric # | Name and Description | Numerator | Denominator | Metric % | Goal | Initial Findings | Details |
|---------------|--|-----------|-------------|----------|------|------------------|---------|
| 2b | Accurate entry of mandatory data: Percentage of files reviewed where mandatory data are accurately reflected in the national data system | 19 | 30 | 63.3% | 100% | | |
| 3a | Timely entry of mandatory data: Percentage of files reviewed where mandatory data are entered in the national data system in a timely manner | 30 | 30 | 100.0% | 100% | | |
| 4a | Planned non-inspection commitments completed: Percentage of non-inspection commitments completed in the review year | 5 | 6 | 83.3% | 100% | | |
| 4b1 | Planned inspections completed: LQGs | 0 | 0 | #DIV/0! | 100% | | |
| 4b2 | Planned inspections completed: SQGs | 0 | 0 | #DIV/0! | 100% | | |
| 4b3 | Planned inspections completed: CESQGs | 0 | 0 | #DIV/0! | 100% | | |
| 4b4 | Planned inspections completed: Transporters | 0 | 0 | #DIV/0! | 100% | | |
| 6a | Inspection reports complete and sufficient to determine compliance: Percentage of inspection reports reviewed that are complete and provide sufficient documentation to determine compliance | 19 | 27 | 70.4% | N/A | | |
| 6b | Timeliness of inspection report completion: Percentage of inspection reports reviewed that are completed in a timely manner | 0 | 0 | #DIV/0! | 100% | | |
| 7a | Accurate compliance determinations: Percentage of inspection reports reviewed that led to accurate compliance determinations | 19 | 27 | 70.4% | 100% | | |

| | | | | | |
|-----|---|----|----|--------|------|
| 8c | Appropriate SNC determinations: Percentage of files reviewed in which significant noncompliance (SNC) status was appropriately determined during the review year | 2 | 14 | 14.3% | 100% |
| 9a | Enforcement that returns SNC sites to compliance: Percentage of enforcement responses that have returned or will return a site in SNC to compliance | 12 | 12 | 100.0% | 100% |
| 9b | Enforcement that returns SV sites to compliance: Percentage of enforcement responses that have returned or will return a secondary violator to compliance | 1 | 1 | 100.0% | 100% |
| 10b | Appropriate enforcement taken to address violations: Percentage of files with enforcement responses that are appropriate to the violations | 14 | 15 | 93.3% | 100% |
| 11a | Penalty calculations include gravity and economic benefit: Percentage of reviewed penalty calculations that consider and include, where appropriate, gravity and economic benefit | 1 | 13 | 7.7% | 100% |
| 12a | Documentation on difference between initial and final penalty: Percentage of penalties reviewed that document the difference between the initial and final assessed penalty, and the rationale for that difference | 3 | 6 | 50.0% | 100% |
| 12b | Penalties collected: Percentage of files that document collection of penalty | 11 | 13 | 84.6% | 100% |

Appendix C: File Selection

Files are selected according to a standard protocol using a web-based file selection tool. These are designed to provide consistency and transparency to the process. Based on the description of the file selection process below, states should be able to recreate the results in the table.

Clean Water Act

File Selection Process

At the time of the review, the State of Maryland had a 92 NPDES permitted major facilities (universe includes 2 inactive major permits), 821 NPDES non-majors with individual permits, and 2,448 non-majors with general permits. EPA focused its file selection on FY 2011 NPDES compliance and enforcement files from a comprehensive range of NPDES sectors to evaluate MDE's compliance and enforcement program.

The Round 3 File Selection Protocol for the size of MDE's regulated universe dictated that the reviewer select 35 to 40 files. Utilizing the SRF File Selection Tool in OTIS (Online Tracking Information System) and supplemented with state data, EPA Region III selected a cross-section of facilities that would be representative of MDE's NPDES compliance monitoring and enforcement activities. Following the SRF File Selection Protocol, EPA selected 40 facilities for the review. Per Step 3 of the File Selection Protocol ("Representative File Selection"), EPA identified a set of NPDES major and non-major facilities that received a compliance inspection(s) and/or formal enforcement action(s) during FY 2011. Additional selection criteria included facilities that received an informal enforcement action, and formal enforcement with penalties. Due to the absence of complete ICIS data for NPDES non-major facilities, EPA requested supplemental data from the MD, and selected a random subset of eight facilities with compliance monitoring and/or enforcement activity during FY 2011. In addition, EPA selected four additional facilities from the Data Metric Analysis (DMA) for supplemental review.

File Selection Table

The file selection table was generated using the file selection tool accessed in OTIS, and supplemented with additional data provided by MDE. The spreadsheet below provides a list of files selected for the review.

| NPDES ID | City | Zip | Permit | Inspection | Violation | SEV | SN | Informal Enforcement | Formal Enforcement | Penalty | Universe | Selection |
|-----------|-----------------|-------|---------------|-------------|-----------|-----|-----|----------------------|--------------------|---------|----------|-----------|
| MD0021628 | Bowie | 20715 | POTW | 0 | Yes | 0 | 0 | 0 | 0 | 0 | Major | R |
| MD0021661 | Anne Arundel | 21226 | Pre-Tx | 5 | 0 | 0 | 0 | 0 | 1 | 0 | Major | R |
| MD0000272 | Frostburg | 21532 | Industrial | 1 | Yes | N/A | N/A | 1 | | | | R |
| MD0068284 | Largo | 20774 | MS4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | Major | R |
| MDG01 | Secretary | 21664 | CAFO | 1 | Yes | 0 | 0 | 1 | 0 | 0 | Minor | R |
| MD0021636 | Cambridge | 21613 | POTW Pre-Tx | 3 | Yes | 0 | 0 | 0 | 1 | 0 | Major | R |
| MD0022764 | Snow Hill | 21863 | POTW | 0 | Yes | 0 | 0 | 0 | 1 | 0 | Minor | R |
| MD0065757 | Hancock | 21750 | WWTP | 1 | Yes | 0 | 0 | 0 | 1 | 0 | Minor | R |
| MDG523072 | Church Creek | 21622 | Industrial | 0 | No | 0 | 0 | 0 | 1 | 0 | Minor | R |
| MD0023272 | Crownsville | 21032 | WWTP | 6 | Yes | 0 | 0 | 0 | 1 | 0 | Minor | R |
| MDG01 | Preston | 21655 | CAFO | 1 | Yes | 0 | Yes | 1 | 2 | 0 | Minor | R |
| MDG01 | Mardela Springs | 21837 | CAFO | 3 | Yes | 0 | Yes | 1 | 1 | 0 | Minor | R |
| MD0053771 | Baltimore | 21230 | Industrial SW | Not in ICIS | N/A | N/A | N/A | N/A | N/A | 0 | Major | R |
| MD0001341 | Baltimore | 21230 | Industrial SW | 2 | Yes | 3 | 0 | 0 | 2 | 50,00 | Major | R |
| MD0002658 | Aquasco | 20608 | | 3 | Yes | 0 | No | 0 | 1 | 800 | Major | R |

| | | | | | | | | | | | | |
|----------------------------------|-------------|-----------|------------------|----------------|-----|-----|-----|-----|-----|--------|-------------|---|
| MD002053 2 | Delwar | 2187 5 | POTW | 12 | Yes | 0 | Yes | 0 | 1 | 24,159 | Minor | R |
| MD002157 1 | Salisbury | 2180 1 | POTW, Pre-Tx | 5 | Yes | 0 | No | 0 | 1 | 9,750 | Major | R |
| MD006359 2 | Hancock | 2175 0 | | 1 | No | 0 | No | 0 | 1 | 10,000 | Minor | R |
| MD006989 2 | Chevy Chase | 2081 5 | | 0 | Yes | 0 | Yes | 0 | 1 | 60,000 | Minor | R |
| MDG01 | Bishopville | 2181 3 | CAFO | 6 | 3 | 0 | Yes | 1 | 1 | 9,600 | Major | R |
| MD002469 4 | Lothian | 2071 1 | | 1 | | 0 | Yes | 0 | 1 | 4,000 | Minor | R |
| 09-GA- 0181 | Oakland | 2155 0 | Constructi on | Not in ICIS | n/a | n/a | n/a | n/a | n/a | 35,000 | Unknow n | R |
| MD000031 1 | Baltimore | 2122 6 | | 2 | Yes | 0 | No | 0 | 0 | 0 | Major | R |
| MD000150 3 | Baltimore | 2122 6 | | 4 | Yes | 0 | No | 0 | 0 | 0 | Major | R |
| MD000177 5 | Baltimore | 2122 6 | | 1 | Yes | 0 | Yes | 0 | 0 | 0 | Major | R |
| MD002060 5 | Galena | 2163 5 | POTW | 4 | Yes | 0 | Yes | 0 | 0 | 0 | Minor | R |
| MD002064 8 | Oakland | 2155 0 | POTW | 5 | Yes | 0 | No | 0 | 0 | 0 | Minor | R |
| MD002186 5 | La Plata | 2064 6 | POTW, Pre-Tx | 4 | Yes | 0 | No | 0 | 0 | 0 | Major | R |
| MD005320 1 | Bal Alton | 2061 1 | | 8 | Yes | 0 | Yes | 0 | 0 | 0 | Minor | R |
| MD005866 1 | Woodsboro | 2179 8 | POTW | 7 | Yes | 0 | Yes | 0 | 0 | 0 | Minor | R |
| Not found (Easton Airport) | Easton | 2160 1 | Constructi on | Not in ICIS | Yes | 0 | | 0 | 0 | 0 | Unknow n | R |

| | | | | | | | | | | | | |
|---------------|--------------------|-----------|------------------|----|----|---|---------|---|---|----------|-------|---------|
| MD000142 2 | Luke | 2154 0 | | 4 | No | 0 | No | 0 | 0 | 0 | Major | R |
| MD000215 1 | Hagerstown | 2174 2 | | 3 | No | 0 | No | 0 | 0 | 0 | Minor | R |
| MD002027 3 | Easton | 2160 1 | POTW | 4 | No | 0 | No | 0 | 0 | 0 | Major | R |
| MD002168 7 | Western Port | 2156 2 | | 4 | No | 0 | No | 0 | 0 | 0 | Major | R |
| MDG01 | Mardela Springs | 2183 7 | CAFO | 3 | No | 0 | No | 0 | 0 | 0 | Minor | R |
| 02-SW-1711 | Baltimore | 2122 6 | Industrial SW | 7 | No | 0 | No | 0 | 0 | 0 | | R |
| MDG49803 4 | Camp Spring | | Constructi on | 22 | 4 | 0 | N/ A | 0 | 0 | 0 | | |
| MD006830 6 | Annapolis | 2140 1 | MS4 | 0 | 2 | 0 | No | 3 | 0 | 0 | Major | |
| MDR05550 1 | Elkton | 2192 1 | MS4 | 0 | 3 | 0 | No | 4 | 0 | 0 | Minor | |
| MDG67503 3 | Brunswick | 2171 6 | MS4 | 0 | 0 | 0 | No | 4 | 0 | 0 | Minor | |
| MDR05550 0 | Elkton | 2192 2 | MS4 | 0 | No | 0 | No | 3 | 0 | 0 | Minor | |
| 05-SF-5501 | Glen Burnie | 2106 2 | MS4 | 0 | No | 0 | No | 0 | 0 | 0 | Minor | |
| MD002028 1 | Chesapeake Beach | | WWTP | | | | | | | \$16,000 | Major | |
| MD006697 4 | Cascade Canada Inc | | | | | | | | | | Major | DM A |
| MD000207 1 | Berlin Properties | | | | | | | | | | Major | DM A |
| MDG67957 1 | La Plata POTW | | | | | | | | | | Major | DM A |

| | | | | | | | | | | | | |
|-------------|-----------------------------|--|------|--|--|--|--|--|--|--|-------|--------------|
| MD0002640 | Mirant Dickerson | | | | | | | | | | | DM A |
| unpermitted | Glenn Holland/Railroad Farm | | CAFO | | | | | | | | Minor | Un-permitted |
| unpermitted | D. Wilkerson Farm | | CAFO | | | | | | | | Minor | Un-permitted |

Rationale for Each Selected File

| File No | Facility Name | NPDES Permit No. | Type of Universe | Reason | Selection Protocol Reference |
|---------|--------------------------------|------------------|---------------------------|--|--|
| 1 | City of Bowie | MD0021628 | Major/ POTW | No inspection, violation(s) discovered, no enforcement actions | Pg 3 – Violation without enforcement action |
| 2 | Cox Creek WRF | MD0021661 | Major/ POTW Pre-Treatment | 5 inspections, violation(s) discovered , no enforcement actions | Pg 3 – Inspections with violations; multiple inspections, no enforcement actions |
| 3 | Mt. Savage Firebrick Co. | 08-DP-0678 | Stormwater - Industrial | Inspection, violation(s) discovered, informal action | Pg 3 – Facility with Informal Action |
| 4 | Prince George's County | MD0068284 | Major – Phase I MS4 | 25 inspections, 5 violations, 3 informal actions | Pg 3 – With Informal Action |
| 5 | Bruce J. Twilley/Twille y Farm | 2010-CCD-0437 | CAFO | Informal Action | Pg 3 – Facility with Informal Action |
| 6 | Cambridge WWTP | MD0021636 | Major – POTW Pretreatment | 3 inspections in 2011, violations discovered, 1 formal action no penalties | Pg 3 – Facility with Formal Action |
| 7 | Snow Hill WWTP | MD0022764 | Non-Major - | Violation(s) discovered, 1 | Pg 3 - Facility with Formal |

| | | | | | |
|----|--|--------------------------|---------------------------|--|--|
| | | | POTW | formal action no penalties | Action |
| 8 | Happy Hills Campground WWTP | MD0065757 | Non-Major – POTW | 1 inspection in 2011, violations found, 1 formal action no penalties | Pg 3 - Facility with Formal Action |
| 9 | Pauls Pride Seafood | MDG523072 | Non-Major – Industrial | 0 inspection in 2011, 0 violation found, but 1 formal action | Pg 3 - Facility with Formal Action |
| 10 | Summer Hill Mobile Ho.Pk. WWTP | MD0023272 | Non-Major – POTW | 6 inspections in 2011, violations found, only 1 formal action without penalties | Pg 3 - Facility with Formal Action |
| 11 | William R. Thomas Jr./Bilden Farm | (No permit no. provided) | CAFO | 1 inspection, 1 violation, but 1 informal action and 2 formal actions with ongoing penalties | Pg 3 - Facility with Formal Action |
| 12 | David & Rebecca Calloway/Bay Breeze Farm | 2010-CCD-0446 | CAFO | 3 inspections, 1 violation, 1 informal action, 1 formal action, \$800 penalties | Pg 3 - Facility with Formal Action; and Enforcement w/ Penalties |
| 13 | Guthman Elite Manufacturing | (No permit no. provided) | Stormwater – Industrial | Judicial Order Penalty, but amount is \$0 | Pg 3 - Facility with Formal Action |
| 14 | American Sugar Refining Inc. | MD0001341 | Major – Industrial | 2 inspections, 3 SEV's, 2 formal actions with penalties | Pg 3 – Enforcement Action with penalties |
| 15 | Mirant Chalk Point, LLC | MD0002658 | Major – Industrial | 3 inspections in 2011, violations found, 1 formal action with \$800 penalties | Pg 3 – Enforcement Action with penalties |
| 16 | Delmar WWTP | MD0020532 | Non-major – POTW | 12 inspections in 2011, violations found, 1 formal action with penalties | Pg 3 – Enforcement Action with penalties; multiple inspections |
| 17 | City of Salisbury WWTP | MD0021571 | Major – POTW Pretreatment | 5 inspections, violations found, 1 formal action with penalties | Pg 3 – Enforcement Action with penalties |

| | | | | | |
|----|----------------------------------|----------------------|----------------------------|---|---|
| 18 | Saputo Cheese USA, Inc. | MD0063592 | Non-Major – Industrial | 1 inspection, 0 violations, but 1 formal action with penalties – discrepancy (?) | Pg 3 – Enforcement Action with penalties |
| 19 | Bi-County Water Tunnel | MD0069892 | Non-Major | 0 inspection, violations found, formal action with penalties | Pg 3 – Enforcement Action with penalties; no inspection but with violations |
| 20 | Jacobs Farm Inc. | 67881, 2009-CCD-0290 | CAFO | 6 inspections, 3 violations, 1 informal action, 1 formal action with penalties | Pg 3 – Enforcement Action with penalties; multiple inspections |
| 21 | Patuxent Mobile Estates WWTP | MD0024694 | Minor, individual permit | Headquarters' discretion; Single Event Violations with penalties | Pg 3 – Enforcement Action with penalties |
| 22 | Grace Davison – Curtis Bay | MD0000311 | Major | 2 inspections in 2011, violations found, no enforcement actions | Pg 3 – Multiple inspections and violations, no Enforcement Actions |
| 23 | Constellation Power Source, Inc. | MD0001503 | Major - Industrial | 4 inspections in 2011, violations found, no enforcement actions | Pg 3 – Multiple inspections and violations, no Enforcement Actions |
| 24 | Erachem Comilog, Inc. | MD0001775 | Major - Industrial | 1 inspection, violations found, no enforcement actions | Pg 3 – Multiple inspections and violations, no Enforcement Actions |
| 25 | Galena WWTP | MD0020605 | Non-Major – POTW | 4 inspections in 2011 for a non-major, violations found, Category 1 SNC, no enforcement actions | Pg 3 – Multiple inspections and violations, no Enforcement Actions |
| 26 | Oakland WWTP | MD0020648 | Non-Major – POTW | 5 inspections in 2011 for a non-major, violations found, no enforcement actions | Pg 3 – Multiple inspections and violations, no Enforcement Actions |
| 27 | Mattawoman WWTP | MD0021865 | Major – POTW, Pretreatment | 4 inspections in 2011, violations found, no enforcement actions | Pg 3 – Multiple inspections and violations, no Enforcement Actions |
| 28 | Relax Inn WWTP | MD0053201 | Non-Major | 8 inspections in 2011, | Pg 3 – Multiple inspections and |

| | | | | | |
|----|---|--------------------|-------------------------|---|---|
| | | | | violations found, Category 1 SNC, no enforcement actions | violations, no Enforcement Actions |
| 29 | Woodsboro WWTP | MD0058661 | Non-Major – POTW | 7 inspections in 2011 for a non-major, violations found, Category 1 SNC, no enforcement actions | Pg 3 – Multiple inspections and violations, no Enforcement Actions |
| 30 | Easton Airport | (None provided) | Stormwater-Construction | Violations found, no enforcement actions | Pg 3 – Multiple violations, no Enforcement Actions |
| 31 | Wal-Mark Store #2272 | 10DO0026 | Stormwater Construction | 6 inspections, 4 violations found, no enforcement actions | Pg 3 – Multiple inspections and violations, no Enforcement Actions |
| 32 | Newpage Corporation D,B,A, Luke Paper Co. | MD0001422 | Major – Industrial | 4 inspections in 2011, 0 violations | Pg 3 – Multiple inspections, no violations |
| 33 | Holcim (US) Inc. | MD0002151 | Non-Major-Industrial | 3 inspections in 2011, 0 violations | Pg 3 – Multiple inspections, no violations |
| 34 | Easton WWTP | MD0020273 | Major – POTW | 4 inspections in 2011, 0 violations | Pg 3 – Multiple inspections, no violations |
| 35 | Upper Potomac River Comm STP | MD0021686 | Major | 4 inspections in 2011, 0 violations | Pg 3 – Multiple inspections, no violations |
| 36 | Steven Brad Webster/Oak Hill Farms | 2011-CCD-0452 | CAFO | 3 inspections in 2011, 0 violations | Pg 3 – Multiple inspections, no violations |
| 37 | Western Acceptance Facility | 02-SW-1711 (10889) | Stormwater – Industrial | 4 inspections, 0 violations | Pg 3 – Multiple inspections, no violations |
| 38 | Andrews Air Force Base | MDG498034 | Stormwater-Construction | 22 inspections, 4 violations, no enforcement actions | Pg 3 – Multiple inspections, few violations, no enforcement actions |
| 39 | Anne Arundel | MD0068306 | Stormwater-MS4 | 12 inspections, 2 violations | Pg 3 – Multiple inspections, few |

| | | | | | |
|----|--|-----------------|---------------------------|--|--|
| | | | Phase I | found, 3 informal actions/letters | violations, no enforcement actions (?) |
| 40 | Cecil County | (None provided) | Stormwater – MS4 Phase II | 17 inspections, 3 violations found, 4 informal actions/letters | Pg 3 – Multiple inspections, few violations, no enforcement actions (?) |
| 41 | Brunswick | (None provided) | Stormwater – MS4 Phase II | 2 inspections, 0 violations, 4 informal actions/letters | Pg 3 – Multiple inspections, no violations, yet 4 informal enforcement actions |
| 42 | Elkton | (None provided) | Stormwater – MS4 Phase II | 2 inspections, 0 violations, 3 informal actions/letters | Pg 3 – Multiple inspections, no violations, yet 3 informal enforcement actions |
| 43 | MDOT – MD Motor Vehicle Admin (MVA), Mult prop | (None provided) | Non-major – stormwater | 0 inspections, 0 enforcement actions, lack of data/paperwork | Supplemental Review |
| 44 | Chesapeake Beach | MD0020281 | Major | Consent Order \$16,000 | Supplemental Review |
| 45 | Cascade Canada Inc. | MD006697 | Major | DMA discrepancy | DMA Supplemental Review |
| 46 | Berlin Properties | MD0002071 | Major | DMA discrepancy | DMA Supplemental Review |
| 47 | La Plata WWTP | (None provided) | Major | DMA discrepancy – 3 consecutive overrides, enforcement actions need to be linked to violations | DMA Supplemental Review |
| 48 | Mirant Dickerson | (None provided) | | DMA discrepancy - Unauthorized discharge | DMA Supplemental Review |
| 49 | Glenn Holland/Railroad Farm | UNPERMITTED | CAFO | Priority Initiative; unpermitted facility – backlog | Supplemental Review |
| 50 | Phillip R. Jr & Lyle D. Wilkerson (multiple | UNPERMITTED | CAFO | Priority Initiative; unpermitted facility – backlog | Supplemental Review |

| | | | | | |
|--|-------------|--|--|--|--|
| | facilities) | | | | |
|--|-------------|--|--|--|--|

Clean Air Act

File Selection Process

The following is the file selection process and files selected for the CAA program:

A. File Selection Process

There were 146 facilities in the file selection tool. From the Table on page 1 in the SRF File Selection Protocol (State Review Framework Round 3), the range of facilities to select for review is from 25 to 30. Twenty seven (27) files were selected for this review. Twenty-one (21) were representative files and the remaining six (6) were supplemental files. In consultation with the Office of Enforcement and Compliance Assurance (OECA), EPA Region III randomly selected a sample that included a mix of universe types, sectors, and geographical locations.

Breakdown of representative files selected (21 files total).

Major Sources (11 files):

- 1) Sources with Compliance Monitoring activity without Enforcement: **3**
- 2) Sources with Enforcement without Compliance Monitoring activity: **5**
- 3) Sources with both Enforcement and Compliance Monitoring activity: **3**

Synthetic Minor Sources (5 files):

- 1) Sources with Compliance Monitoring activity without Enforcement: **3**
- 2) Sources with Enforcement without Compliance Monitoring activity: **1**
- 3) Sources with both Enforcement and Compliance Monitoring activity: **1**

Tier 2 Minor Sources (5 total):

- 1) Sources with Compliance Monitoring activity without Enforcement: **3**
- 2) Sources with Enforcement without Compliance Monitoring activity: **2**

3) Sources with both Enforcement and Compliance Monitoring activity: 0

Supplemental File Selection (6 files total)

Supplemental files were used to ensure that the Region had enough files to review and to understand whether a potential issue or concern that was shown by the data analysis was in fact an issue or concern. The Data Metric Analysis did not show any data metrics of potential concern. However, the SRF Rounds 1 and 2 did reveal a potential concern of MDE's ability to apply the HPV definition to violations discovered at major sources. Therefore an additional five (5) major sources with violations that did not rise to the level of an HPV was chosen for this review as supplemental files.

Finally, there was only one (1) major source with a failed stack test during the review year. This source did not rise to the level of an HPV. Therefore, this source was chosen for the review as a supplemental file.

Appendix C (continued): File Selection Table

| Facility ID Number | Facility City | Facility Zip Code | Full Compliance Evaluations | Stack Tests Failed | Violations | HPVs | Informal Actions | Formal Actions | Penalties | Universe | Selection Value |
|--------------------|--------------------------|-------------------|-----------------------------|--------------------|------------|------|------------------|----------------|-----------|-----------------|-------------------------|
| 2400100011 | Luke, Maryland | 21540 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | Major | Accepted Supplemental |
| 2400300309 | Baltimore, Maryland | 21226 | 4 | 0 | 1 | 3 | 3 | 2 | 35000 | Major | Accepted Representative |
| 2400500147 | Sparrows Point, Maryland | 21219 | 0 | 0 | 1 | 0 | 0 | 3 | 135000 | Major | Accepted Representative |
| 2400500236 | Baltimore, Maryland | 21236 | 2 | 0 | 1 | 0 | 0 | 2 | 75000 | Major | Accepted Representative |
| 2400500979 | Dundalk, Maryland | 21222 | 0 | 0 | 1 | 0 | 3 | 6 | 35000 | Major | Accepted Representative |
| 2400501274 | Perry Hall, Maryland | 21236 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | Tier II Minor | Accepted Representative |
| 2400502406 | Rosedale, Maryland | 21237 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | Tier II Minor | Accepted Representative |
| 2401300012 | Union Bridge, Maryland | 21791 | 0 | 0 | 1 | 3 | 0 | 0 | 0 | Major | Accepted Supplemental |
| 2401700014 | Newburg, Maryland | 20664 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | Major | Accepted Supplemental |
| 2401700040 | Indian Head, Maryland | 20640 | 4 | 0 | 1 | 0 | 4 | 0 | 0 | Major | Accepted Representative |
| 2402100037 | | 21704 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | Synthetic Minor | Accepted Representative |

| | Frederick, Maryland | | | | | | | | | | |
|--------------------------|-----------------------------|----------------------|-----------------------------------|--------------------------|------------|------|---------------------|-------------------|-----------|--------------------|----------------------------|
| 24021001 31 | Frederick, Maryland | 21702 | 4 | 1 | 1 | 0 | 3 | 0 | 0 | Major | Accepted Supplemental |
| 24021001 40 | Emmitsburg, Maryland | 21727 | 2 | 0 | 1 | 0 | 0 | 1 | 40000 | Synthetic Minor | Accepted Representative |
| Facility ID Number | Facility City | Facility Zip Code | Full Compliance Evaluations | Stack Tests Failed | Violations | HPVs | Informal Actions | Formal Actions | Penalties | Universe | Selection Value |
| 24021002 34 | Frederick, Maryland | 21704 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | Major | Accepted Representative |
| 24021002 54 | Point of Rocks, Maryland | 21777 | 0 | 0 | 1 | 2 | 2 | 2 | 29000 | Major | Accepted Representative |
| 24023000 02 | Accident, Maryland | 21520 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | Synthetic Minor | Accepted Representative |
| 24023000 42 | Oakland, Maryland | 21550 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | Major | Accepted Supplemental |
| 24025001 84 | Bel Air, Maryland | 21014 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | Tier II Minor | Accepted Representative |
| 24031000 19 | Dickerson, Maryland | 20842 | 0 | 0 | 1 | 0 | 4 | 0 | 0 | Major | Accepted Supplemental |
| 24033000 10 | College Park, Maryland | 20742 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | Major | Accepted Representative |
| 24033013 52 | Temple Hills, Maryland | 20748 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | Tier II Minor | Accepted Representative |

| | | | | | | | | | | | |
|----------------|---------------------------|-------|---|---|---|---|---|---|-------|--------------------|----------------------------|
| 24039001 44 | Pocomoke, Maryland | 21851 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | Synthetic Minor | Accepted Representative |
| 24043000 05 | Williamsport, Maryland | 21795 | 0 | 0 | 1 | 2 | 2 | 2 | 30000 | Major | Accepted Representative |
| 24043000 06 | Hagerstown, Maryland | 21742 | 0 | 0 | 1 | 2 | 0 | 4 | 85000 | Major | Accepted Representative |
| 24043000 08 | Hagerstown, Maryland | 21742 | 4 | 0 | 1 | 0 | 0 | 2 | 0 | Major | Accepted Representative |
| 24510024 69 | Baltimore. Maryland | 21223 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | Tier II Minor | Accepted Representative |
| 24510034 88 | Baltimore, Maryland | 21201 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | Synthetic Minor | Accepted Representative |

Resource Conservation and Recovery Act File Selection

Process: The RCRA program using the file selection tool selected 17 files with violations including SNC, formal and informal actions, penalties, and inspections. An additional 13 supplemental files were selected at random.

| ID Number | State District | County Code | Indian Country | Universe | Inspections | Violations | SNC | Informal Actions | Formal Actions | Penalty | Flag Value |
|--------------|----------------|-------------|----------------|----------|-------------|------------|-----|------------------|----------------|---------|-------------------------|
| MD0000932590 | | MD003 | No | SQG | 1 | 7 | 0 | 1 | 1 | 1500 | Accepted Representative |
| MD4170024687 | | MD031 | No | TSDf LQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDD000619718 | | MD003 | No | LQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDD001890060 | | MD029 | No | LQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MD4170090001 | | | No | TSDf LQG | 2 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDD003248937 | | MD033 | No | LQG | 1 | 10 | 0 | 1 | 0 | 0 | Accepted Representative |
| MDD022505119 | | MD510 | No | SQG | 0 | 0 | 0 | 0 | 1 | 500 | Accepted Representative |
| MDD022658736 | | MD031 | No | LQG | 1 | 9 | 0 | 1 | 0 | 0 | Accepted Representative |
| MDD044148856 | | MD510 | No | LQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDD052340973 | | MD510 | No | LQG | 1 | 3 | 0 | 1 | 1 | 0 | Accepted Representative |
| MDD054900287 | | MD015 | No | LQG | 1 | 9 | 0 | 0 | 0 | 0 | Accepted Representative |
| MDD064874050 | | MD510 | No | SQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDD091336529 | | MD033 | No | SQG | 0 | 0 | 0 | 0 | 1 | 15000 | Accepted Representative |
| MDD003067121 | | | No | TSDf LQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |

| | | | | | | | | | | | |
|--------------|--|-------|----|----------------------|---|---|---|---|---|-------|-------------------------|
| MDD980832067 | | MD005 | No | SQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDD982566218 | | MD033 | No | LQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDD982573909 | | MD015 | No | LQG | 1 | 2 | 0 | 1 | 0 | 0 | Accepted Representative |
| MDD982580391 | | MD031 | No | CESQG | 0 | 0 | 0 | 0 | 1 | 750 | Accepted Representative |
| MDD985376631 | | MD033 | No | LQG | 1 | 9 | 0 | 1 | 1 | 0 | Accepted Representative |
| MDD985386564 | | MD005 | No | LQG | 1 | 8 | 0 | 1 | 1 | 0 | Accepted Representative |
| MDD985400324 | | MD510 | No | LQG | 1 | 1 | 0 | 0 | 0 | 0 | Accepted Representative |
| MDD985412592 | | MD005 | No | SQG | 1 | 1 | 0 | 0 | 0 | 0 | Accepted Representative |
| MDD980829873 | | | No | TSDf LQG Transporter | 2 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDR000012393 | | MD031 | No | SQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDR000510354 | | MD005 | No | LQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDR000518597 | | MD033 | No | Other | 2 | 3 | 0 | 1 | 1 | 600 | Accepted Representative |
| MDR000519857 | | MD005 | No | CESQG | 0 | 0 | 0 | 0 | 1 | 35000 | Accepted Representative |
| MDR000523915 | | MD510 | No | LQG | 1 | 6 | 0 | 0 | 0 | 0 | Accepted Representative |
| MDR000524434 | | MD033 | No | LQG | 1 | 0 | 0 | 0 | 0 | 0 | Accepted Supplemental |
| MDR000525036 | | MD045 | No | CESQG | 1 | 8 | 0 | 1 | 1 | 1500 | Accepted Representative |
| | | | | | | | | | | | |

Appendix D: Status of Past SRF Recommendations

During the Round 1 and 2 SRF reviews, the following recommended actions were developed. The recommendations are described below:

| Round | Status | Due Date | Media | E# | Element | Finding | Recommendation |
|---------|-----------|------------|-------|-----|------------------------------|--|--|
| Round 1 | Completed | 05/29/2008 | CWA | E12 | Penalties Collected | All compliance and enforcement activities in PCS | MDE should capture all compliance and enforcement activities in PCS. |
| Round 1 | Working | 05/29/2008 | CWA | E10 | Timely & Appropriate Actions | Include penalty calculation in enforcement files | Enforcement files should include information regarding penalty calculation. MDE should be entering penalty information into PCS. |
| Round 2 | Working | 04/30/2010 | CWA | E11 | Penalty Calculation Method | The review team did not observe documentation of gravity or economic benefit calculations in the penalty files reviewed. | Maryland state law does not require MDE to collect economic benefit. However, MDEs enforcement procedure provides that they will collect any economic benefit of noncompliance |

| | | | | | | | |
|---------|---------|------------|-----|-----|---|--|---|
| | | | | | | | where possible. The enforcement fields should contain copies of penalty calculations. |
| Round 2 | Working | 04/30/2010 | CWA | E5 | Inspection Coverage | MDE did not conduct inspections at 100% of its major universe of NPDES permittees. | Inspection reports for 11 MS4 individual majors were not observed in the data system or central files. The review team was informed that these inspections are not conducted annually; rather MDE evaluates their performance based upon each county's submission of annual program implementation plans. |
| Round 2 | Working | 04/30/2010 | CWA | E2 | Data Accuracy | There were several enforcement actions with absent or inaccurately coded data in ICIS. | Penalty data missing for one facility, incorrectly coded enforcement actions at one or more NPDES permits. |
| Round 2 | Working | 04/30/2010 | CWA | E12 | Final Penalty Assessment and Collection | The review team did not observe documentation in the files reviewed that would identify the differences between initial and final penalties in the file. | Of the 5 penalty reviews conducted, one documented a 35% penalty reduction and another documented an initial penalty and an assessed penalty. A rationale for either of these was not identified in the file. |
| Round 2 | Working | 04/30/2010 | CWA | E4 | Completion of Commitments | MDE did not conduct inspections at 100% of its major universe of NPDES permittees. | Inspection reports for 11 MS4 individual majors were not observed in the data system or central files. The review team was informed that these inspections are not conducted annually; rather MDE evaluates their performance based upon each counts submission of annual program implementation plans. |

Appendix E: Program Overview

Agency Structure

In 1987, the Maryland Department of the Environment (MDE) was created to protect and preserve the state's air, water and land resources and safeguard the environmental health of Maryland's citizens. MDE's duties also encompass enforcement of environmental laws and regulations, as well as long-term planning and research. MDE also provides technical assistance to Maryland businesses and communities for pollution and growth issues. The agency employs approximately 900 staff and its main office is located in Baltimore, MD. MDE has eight field offices divided into the following regions with managers assigned to each region:

Western Maryland region: Allegany, Carroll, Frederick, Garrett, Montgomery, and Washington County. The NPDES program has a field office in Frostburg, and a satellite office in Hagerstown.

Central Maryland region: Anne Arundel, Baltimore, Calvert, Charles, Harford, Howard, Prince George's, and St. Mary's Counties as well as Baltimore City. The Central Office includes the main office located in Baltimore and a Field Operations Office located in Annapolis.

Eastern Shore region: Caroline, Cecil, Dorchester, Kent, Queen Anne's, Talbot, Somerset, Wicomico, and Worcester Counties. In addition, Water Management has a field office in Cambridge, MD and Waste Management has a field office in Centreville.

MDE has the following seven broad goals to measure its progress in achieving its mission and vision:

1. Promoting Land Redevelopment and Community Revitalization
2. Ensuring Safe and Adequate Drinking Water
3. Reducing Maryland Citizens' Exposure to Hazards
4. Ensuring the Safety of Fish and Shellfish Harvested in Maryland.
5. Improving and Protecting Maryland's Water Quality
6. Ensuring the Air is Safe to Breathe
7. Providing Excellent Customer Services to Achieve Environmental Protection

MDE has three media-specific administrations: Air and Radiation Management Administration, Waste Management Administration, and Water Management Administration. There are two additional administrations that provide administrative and technical support to the Air, Water and Waste management administrations. MDE's workforce is comprised of field inspectors, permit writers, engineers and scientists. In addition, MDE has administrative, clerical, management, information technology and financial personnel, planners, legal counsel, and other professionals.

MDE Compliance and Enforcement Program Structure

The compliance and enforcement programs are housed within the Air and Radiation Management Administration, Water Management Administration and Land Management Administration.

MDE has an internal guidance document (MDE Enforcement Procedures) which sets forth the Department's civil and administrative enforcement and criminal referral procedures as it applies to addressing violations of any statutory, regulatory or permit requirement. The enforcement procedures document includes guidance on classification of violations, timely and appropriate enforcement response, initiation of a civil action, initiation of an administrative action, including penalties, the identification of significant non-compliance and timeframe for addressing and escalation of an enforcement matter including referring violations either to EPA Region III and to their criminal enforcement division of the Attorney General's Office.

NPDES Compliance and Enforcement Program Structure:

MDE's NPDES compliance monitoring and enforcement program is implemented through two organizations within MDE, the Land Management and Water Management Administrations. The Land Management Administration is responsible for the following three NPDES programs: 1) Oil Control (oil terminal discharges and groundwater remediation discharges from oil contamination); 2) NPDES Mining (compliance monitoring/enforcement of mineral mines and coal mines as well as processing of Notices of Intent (NOI) for general permits); and 3) CAFO. The remaining three NPDES programs are located in the Water Management Administration: 1) Wastewater Permits; 2) NPDES Compliance Program; and 3) Nonpoint Source Program (MS4s and related NPDES storm water permits).

The NPDES Compliance Program in MDE's WMA performs a number of critical functions to prevent and address issues associated with water pollution. The Compliance Program has approximately 35 inspectors working out of regional field offices in Frostburg, Hagerstown, and Cambridge, as well as the central office in Baltimore, MD.

Local Agencies Included and Excluded From Review

None

Roles and Responsibilities

MDE is delegated to directly implement all NPDES program areas. Under MDE's organizational structure, the Director of the WMA oversees the Compliance Program. There are three inspection division chiefs and an enforcement division chief who work under the direction of Thomas C. Boone, Director of the Compliance Program, and Dave Lyons, Deputy Director of the Program. Compliance program inspectors are responsible for inspections related to the following NPDES program sectors: NPDES individual and general discharge permits; state groundwater discharge permits; erosion and sediment control; coal mining and non-coal mining; tidal and non-tidal wetlands; citizen complaints; and sewer overflows or other unauthorized

discharges of pollutants to waters of the State. MDE's NPDES inspectors average 400 to 450 inspections per year involving various NPDES program sectors.

MDE's Compliance Program assigns each inspection a priority. Routine inspections are scheduled based on the assigned priority and as workload allows. Facilities are not given advance notification of routine inspections. At any time during the process, the inspection frequency can be adjusted as site conditions or workload demand. The Compliance Program also responds to complaints from citizens across all NPDES facility types. During FY 2011, the Compliance Program received nearly 1,300 citizen complaints. When an inspection reveals a significant violation, or if minor violations continue to recur and become a significant problem, MDE addresses the violation with an escalated enforcement response such as formal enforcement with penalty, corrective order, injunction, and criminal sanctions.

MDE's formal enforcement options include administrative actions which are adjudicated through the Office of Administrative Hearings and judicial actions which are civil or criminal proceedings. Administrative and civil actions can result in orders and/or penalties while criminal proceedings can result in fines and/or imprisonment. Legal support for administrative and civil enforcement is provided by the MD Office of the Attorney General (AG). MDE Compliance Program staff issue informal Notices of Violation (NOV) as well as administrative penalty orders to address more serious or continuing violations. Larger cases which often require injunctive relief, are handled through civil actions, and are referred to the MD AG.

The Attorney General's Environmental Crimes Unit (ECU) investigates and prosecutes environmental crimes in Maryland. The ECU is a criminal investigation and prosecution unit under the direction of the Criminal Division of the Attorney General's Office. The ECU Unit currently includes three Assistant Attorneys General, one civilian investigator with extensive environmental science and investigation backgrounds, and one Maryland State Police trooper assigned as an investigator. MDE provides support to the ECU, promoting regular interaction with MDE inspectors and other technical experts.

Resources

Central Division (located in Baltimore): 14 inspectors, 3 managers (1 division chief and 2 district managers), 1 division secretary assisted by 2 additional program secretaries. At the time of the SRF file review there were 3 vacancies.

Eastern Division (located in Cambridge Office): 11 inspectors, 3 managers (1 division chief and 2 district managers), 2 division secretaries.

Western Division (located in Frostburg and Hagerstown): 11 inspectors, 3 managers (1 division chief in Frostburg and 2 district managers in Hagerstown), 2 division secretaries (one in Frostburg, one in Hagerstown). At the time of the SRF file review there was 1 vacancy.

Enforcement Division (located in Baltimore Office): 4 enforcement coordinators, 3 managers (1 division chief and 2 enforcement managers), 1 division secretary assisted by 2 additional program secretaries, 3 contractual enforcement specialists, 1 contractual data entry specialist, 1

Environmental Compliance Specialist (ECS) III, 1 functional analyst, 1 senior programmer/analyst, 3 administrative officers.

Resource Planning and Utilization Division (located in Baltimore Office): 3 staff for ICIS activities, 2 staff for computer support and data related activities, 1 staff for general permit and public information act activities, 1 manager (division chief), and 3 secretaries.

During FY 2011, MDE was impacted by a number of resource constraints. MDE's overall inspector workforce decreased almost 6% during FY 2011. MDE has reduced staff levels in all areas due to budget constraints. In addition to ongoing budget issues that have eliminated positions, the State had a Voluntary Separation Program in FY 2011 that resulted in additional loss of positions. Filling vacant positions remains difficult due to a hiring freeze. Due to lack of consistent funding, and a hiring freeze, MDE was unable to fill several vacancies for NPDES inspectors. In addition, general State and federal budgetary challenges increasingly constrain MDE's compliance and enforcement activities.

Staffing and Training

The Water Management Administration does not have a defined curriculum for training of the NPDES enforcement and compliance monitoring staff. Training for new inspectors consists of an orientation session that provides an overview of MDE and the Water Management Administration organization. MDE also provides training in the field for new inspectors by pairing new hires with an experienced inspector for a period of six months. In addition to in-field training, MDE conducts monthly division-level meetings and several full program staff meetings each year. These meetings include training modules related to various inspection, compliance and enforcement topics. MDE also conducts an 'inspector forum' annually that provides a day of training and information exchange for all inspectors. Staff members are also encouraged to attend training provided by the Maryland Center for Environmental Technology (MCET). This training includes numerous courses related to wastewater treatment, plant operation and maintenance, and associated topics. When possible, (based on location and funding availability) staff members also attend training provided by EPA, the Corps of Engineers and various other providers, such as public health or environmental organizations.

Data Reporting Systems and Architecture

The Water Management Administration employs several databases for managing NPDES compliance monitoring and enforcement information. MDE's main information management data system is an enterprise environmental management system (EEMS) known as Tools for Environmental Management and Protection Organizations (TEMPO). TEMPO is an Oracle-based relational database management system. MDE began using TEMPO on July 1, 2008. Data held in TEMPO includes NPDES permit information, completed inspection reports, and facility compliance data related to specific regulatory requirements applicable to the facility. The compliance program uses TEMPO to record field inspection reports conducted by its inspectors through a TEMPO module called TRIP (Tempo Remote Inspection Program).

MDE is currently working on an initiative to allow compliance and enforcement data in TEMPO to interface with the ICIS national data base system. At the present time, MDE's compliance program enters all NPDES inspections into ICIS through a separate process. Inspectors provide logs of NPDES inspections to the MDE ICIS team and the team enters the information manually. In addition, MDE maintains, and regularly updates an internal Excel spreadsheet to track enforcement actions under development. When an enforcement action becomes final, MDE enters the data into the Standard Quality Limits (SQL)-based database for tracking, including penalty payments. The Enforcement Division also provides the ICIS team with data sheets for each completed NPDES enforcement actions, and the team manually enters the information into ICIS.

MDE enters discharge permits, discharge monitoring reports (DMRs), inspection dates, enforcement actions for NPDES majors, and individual non-majors as well as general permits into ICIS. MDE relies on Excel spreadsheets for all municipal storm water permits.

In addition, the CAFO program, which is located outside of the WMA in the Land Management Administration, does not enter or upload CAFO compliance monitoring and enforcement information into ICIS.

The Water Permits Program (WPP) currently uses a permit tracking system known as PERT. However, MDE will transition permit tracking to the TEMPO database in 2013. Until the TEMPO system is fully operational, MDE continues to use an existing in-house database system that provides current permit tracking information. MDE has not yet linked electronic DMRs to the national database.

Other database systems used by the WMA include: Problem Activity Form (PAF) system which tracks citizen tips and complaints; "Beast" (not an acronym) which tracks all cases under development by the compliance program and includes other media cases; Sanitary Sewer System (SSO) /Combined Sewer System (CSO) and bypass information is tracked in the Maryland Reported Sewer Overflow database posted on MDE's website; a state-wide Financial Management Information System (FMIS) used for accounts receivable; internal Excel spreadsheets to log DMRs and track consent decrees; a violation penalty database to track completed enforcement actions and payments of penalty invoices; and the E5/H5 list which is a table on the internal share directory that tracks cases involving high levels of environmental/public health impacts. The WPP also develops and tracks nutrient and total suspended solids (TSS) loading for the Chesapeake Bay TMDL (goals have been specified for each waterbody segment). Maryland began implementing enhanced nutrient removal (ENR) in 2005 to address water quality problems in the Bay. Currently, MDE can examine Chesapeake Bay TMDL compliance by county or segment (MDE has implemented 97% of the Chesapeake Bay TMDL in NPDES permits).

Air Compliance and Enforcement Structure:

The Air Quality Compliance Program (AQCP) of the ARMA is divided into four Divisions and one Office. Those are the Process Compliance Division, Industrial Compliance Division, Field

Services Division, Asbestos Division and the Compliance Services Office (CSO). The AQCP also has two regional offices, one in Salisbury, MD and one in Frostburg, MD.

The AQCP is responsible for ensuring compliance with air quality laws and regulations, inspecting air pollution sources, investigating and resolving public complaints about odors and air pollution, regulating asbestos, and taking appropriate enforcement action for failure to comply. The AQCP also maintains and tracks records of stationary sources of air pollution, including compliance and enforcement data.

Roles and responsibilities: MDE is delegated or approved to directly implement all aspects of the CAA Stationary Source permitting, compliance monitoring and enforcement program. MDE administers and enforces federal and state regulations that cover stationary sources in Maryland.

The Process Compliance Division, Industrial Compliance Division and the Field Services Division are responsible for most aspects of compliance monitoring and enforcement for MDE at stationary sources. The CSO handles all compliance and enforcement data entered into the state and federal data systems. Legal support for administrative and civil enforcement actions is handled by the Maryland Office of the Attorney General.

MDE attempts to settle many violations administratively. When a violation is found a Notice of Violation (NOV) is sent to the violating source by the inspector. The inspector has the authority to sign the NOV. Where penalties are relatively low and significant attorney involvement may not be necessary, a Notice of Proposed Civil Penalty shortly follows the NOV with the directions to the violator regarding payment of the penalty, how to request an informal meeting with MDE and rights of appeal. If the violator opts for a meeting and negotiations are favorable, a Notice of Assessed Civil Penalty will be issued with the final penalty amount. Any corrective action necessary may be handled by a Corrective Order or Consent Order.

More complicated, larger cases are usually handled through civil action and are referred to the Attorney General's Office. Referrals are accomplished in writing, often including conversations between the Air Program Manager, the Director for the Air & Radiation Management Administration, and the Attorney General's Office. Before going to court, an Opportunity to Settle Letter is issued to the source in an attempt to avoid litigation. Negotiations are handled through the MDE attorney and the facility attorney. If negotiations fail the case will go to court. Criminal cases are handled by the Environmental Crimes Unit.

Addressing actions, for the purpose of the HPV Policy, include the Notice of Assessed Civil Penalty and a civil referral made to the Attorney General's Office.

Resources: Funding for the AQCP comes from Title V fees and penalties collected. Title V fees and penalties go into the Maryland Clean Air Fund which is used to support ARMA operations. EPA Section 105 grant provides some funding, but use of these funds is limited to activities that are not covered under Title V. Other Maryland agencies also provide some revenue. For example, the Maryland Department of Transportation provides funding for Stage II and the Department of Natural Resources provides funding for power plant reviews.

Safety equipment is provided for all personnel as needed. Vehicles are also provided through MDE.

Staffing/Training: The AQCP has 39 full time employees (FTEs). As of July 2012, eight (8) FTEs were in the asbestos program, which currently has two (2) vacancies. That leaves 31 FTEs in the AQCP. Compared to the Round 2 SRF in 2008, the total FTEs has only decreased by 1 FTE.

The AQCP has a Training Guide for new and existing employees. Each Division has different required training courses based upon the types of facilities they inspect. It is mandatory that all employees have health and safety training annually and receive a Visible Emission Certification every six months. The Supervisor of the CSO is the training coordinator for the AQCP. An annual training report is sent to the Human Resources office and the AQCP Program Manager. It provides details on every employee's training for the year. The Supervisor stated to the EPA Review Team that necessary training is never denied.

Data Reporting Systems and Architecture: MDE does not currently have a state data system to track compliance monitoring and enforcement activities. As a result they are direct users of the AFS. The ARMA, CSO is responsible for air program data flow and quality assurance. Each engineer or field inspector is responsible for submitting their compliance and enforcement activities to the CSO using a form from the ARMA named the ARMA-34 by the 10th of each month. The Supervisor of the CSO will then review the report forms ensuring that all MDR requirements have been met and are being accurately reported, making changes (e.g. action type codes) to the forms, as appropriate. The CSO will then indicate using a check mark that the form has been reviewed for accuracy and is ready to be entered into AFS. The data is entered into AFS 2 to 3 times a week. A report is generated from AFS on a weekly or biweekly basis to ensure and verify that the data has been entered into AFS properly.

MDE's Air Quality Compliance Program has been working toward implementing Tools for Environmental Management and Protection Organization (TEMPO). Upon completion, TEMPO will be used to transfer federally reportable data to AFS.

RCRA Compliance and Enforcement Structure:

MDE's compliance monitoring and enforcement staff is responsible for inspecting hazardous waste facilities, generators, transporters, tips and complaints. Under RCRA C Grant, 20 TSD facilities each grant year and 20% of the LQG universe (approximately 120 sites). The number of complaints always is variable.

Resource Constraints: There are a couple of issues affecting resource constraints in the RCRA program. Grant funding provided by EPA has been flat-lined for the last 10 years, very little general funds, and special funds are distributed in variety of ways. The number of inspectors has been reduced over time. With a limited number of inspectors, a complicated case could tie up an inspector resulting in that inspector conducting fewer inspections in that year.

Training: The RCRA inspectors are required to have the following training:

- 80 hour hazmat personnel protection and safety course: Required by OSHA 1910 standard
- Miscellaneous courses (if available) through EPA or NEEP: Basic Inspector Training
- “On the job” training

There is currently no formalized program specifically designed for hiring and maintaining qualified staff in the RCRA Compliance Program. There is no field office staff in the RCRA program in our field offices.

Appendix F: SRF Correspondence

MARYLAND SRF ROUND 3

Timeline of DMA and File Selection Process

| | |
|-------------------|--|
| 6/27/12 | Data Metric Analysis (DMA) completed |
| 6/28/12 | DMA to MDE and EPA Headquarters |
| 7/02/12 | Comments on DMA received into R3 from EPA Headquarters |
| 7/11/12 | Comments on DMS discrepancies received into R3 from MDE |
| 7/23/12 | File Selection completed using OTIS File Selection Tool, but the Selection Tool lacked non-core programs info (i.e. MS4, Industrial storm water, construction storm water, and CAFO) |
| 7/23/12 | Requested additional information from MDE on non-core programs that are not in ICIS/OTIS |
| 7/30/12 | Follow-up calls to MDE departments requested data |
| 8/2/12 | Follow-up e-mails to MDE departments on requested data |
| 8/2/12 | Received CAFO data from Gary Kelman |
| 8/2/12 | Received storm water Active Construction Permit info from C. Coates |
| 8/3/12 | Received industrial storm water data/info from C. Coates |
| 8/3/12 | Received construction inspection data/info from C. Coates |
| 8/6/12 | Received industrial storm water inspections data from C. Coates |
| 8/6/12 | Received partial MS4 info from R. Bahr |
| 8/8/12 | Received revised, partial MS4 info from R. Bahr; Violations column missing |
| 8/9/12 | Received revised, partial MS4 info from R. Bahr; Violations column complete |
| 8/9/12 | Received revised, complete MS4 info from R. Bahr |
| 8/9/12 | Met with M. Price-Fay and C. Menen on File Selection Planning |
| 8/10/12 | Sent completed, revised/polished File Selection along w/ Selection Rationale/Narrative to M. Price-Fay and C. Menen to comments |
| 8/16/12 | Conference call w/ EPA HQ to discuss comments on the File Selection |
| 8/16/12 | Sent revised File Selection to M. Price-Fay |
| 8/20/12 at 3:25pm | M. Price-Fay sent final File Selection to MDE with proposed review schedule (wk of 9/17/12 or 9/24/12) |

Correspondence Air

1. Data Metric Analysis Transmittal Email to MDE.

File Selection for SRF Round 3
Danielle Baltera
to:
fcourtright
07/11/2012 12:45 PM
Cc:
ldaniel
Show Details

Frank,
The file selection is attached. Please let me know if you have any questions.

Thank you,
Danielle